



भारत का राजपत्र The Gazette of India

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प्राधिकार से प्रकाशित
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सं. 31] नई दिल्ली, जुलाई 30—अगस्त 5, 2023, शनिवार/श्रावण 8—श्रावण 14, 1945
No. 31] NEW DELHI, JULY 30—AUGUST 5, 2023, SATURDAY/SHRAVANA 8—SHRAVANA 14, 1945

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत और पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 26 जुलाई, 2023

का.आ. 1244.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री अनुपम एस. शर्मा, अधिवक्ता को, केन्द्रीय अन्वेषण ब्यूरो विशेष न्यायाधीश, दिल्ली के न्यायालय के समक्ष, दिल्ली विशेष पुलिस स्थापन (केन्द्रीय अन्वेषण ब्यूरो) द्वारा संस्थित मामला आरसी 224 2022 ए 0001 (डीएचएफएल-कंसोर्टियम बैंक मामले) और अपील, पुनरीक्षण तथा किसी विधि द्वारा स्थापित किसी अपील या पुनरीक्षण न्यायालय में इस मामले से उत्पन्न होने वाले अन्य मामलों में अभियोजन का संचालन करने के लिए, पदभार ग्रहण करने की तारीख से तीन वर्षों की अवधि के लिए या मामले के निपटारा होने तक, जो भी पहले हो, विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/50/2022-एवीडी-II]

राजीव कुमार खरे, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**(Department of Personnel And Training)**

New Delhi, the 26th July, 2023

S.O. 1244.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Anupam S. Sharma, Advocate as Special Public Prosecutor for conducting prosecution case RC 224 2022 A 0001 (DHFL-Consortium Bank Case) instituted by the Delhi Special Police Establishment (Central Bureau of Investigation) before the Court of Special Judge CBI Cases, Delhi and any appeal, revision and other matters arising out of this case in any Appellate or Revisional Court established by law, for a period of three years from the date of assumption of charge or till disposal of the case, whichever is earlier.

[F. No. 225/50/2022—AVD-II]

RAJEEV KUMAR KHARE, Under Secy.

नवीन और नवीकरणीय ऊर्जा मंत्रालय

नई दिल्ली, 27 अप्रैल, 2023

का.आ. 1245.—केन्द्रीय सरकार, राजभाषा (संघ के राजकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, नवीन और नवीकरणीय ऊर्जा मंत्रालय के प्रशासनिक नियंत्रणाधीन निम्नलिखित स्वायत्त संस्थान को उनके 80 प्रतिशत से अधिक कार्मिकों द्वारा हिन्दी का कार्यसाधक ज्ञान प्राप्त करने पर अधिसूचित करती है:

सरदार स्वर्ण सिंह राष्ट्रीय जैव ऊर्जा संस्थान (एसएसएस-नीबे),

जालंधर, कपूरथला रोड, वडाला कलां,

कपूरथला (पंजाब)-144601

[फा. सं. 27-11017/2/2022-हिन्दी-एमएनआरई]

नन्दन सिंह दुग्ताल, उप निदेशक (राजभाषा)

MINISTRY OF NEW AND RENEWABLE ENERGY

New Delhi, the 27th April, 2023

S.O. 1245.—In pursuance of Sub rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following autonomous institution under the administrative control of the Ministry of New and Renewable Energy, where more than 80% of staff have acquired working knowledge of Hindi:

Sardar Swaran Singh National Institute of Bio-Energy (SSS-NIBE),

Jalandhar-Kapurthala Road, Wadala Kalan,

Kapurthala (Punjab) - 144601

[F. No. 27-11017/2/2022-HINDI-MNRE]

NANDAN SINGH DUGTAL, Dy. Director (OL)

संचार मंत्रालय**(डाक विभाग)**

नई दिल्ली, 7 जुलाई, 2023

का.आ. 1246.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है:-

पोस्टमास्टर जनरल का कार्यालय,
बेंगलुरु मुख्यालय क्षेत्र,
बेंगलुरु- 560001

[फा. सं. ई-11017-1/2021-रा.भा.]

मोजफ्फर उद्दीन अब्दाली, उप महानिदेशक (ईएमएम /राजभाषा)

MINISTRY OF COMMUNICATION

(Department of Posts)

New Delhi, the 7th July, 2023

S.O. 1246.— In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi:-

**O/o The Postmaster General,
Bengaluru HQ Region,
Bengaluru- 560001**

[F. No. E-11017-1/2021-OL]

MOZAFFAR UDDIN ABDALI, Dy. Director General (EMM/OL)

नई दिल्ली, 7 जुलाई, 2023

का.आ. 1247.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है:-

**महाप्रबंधक (डाक लेखा एवं वित्त),
पश्चिम बंगाल सर्कल,
कोलकाता-700 012**

[फा. सं. 11017-1/2021-रा.भा.]

मोजफ्फर उद्दीन अब्दाली, उप महानिदेशक (ईएमएम /राजभाषा)

New Delhi, the 7th July, 2023

S.O. 1247.—In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi:-

**General Manager (Postal Accounts and Finance),
West Bengal Circle,
Kolkata- 700 012**

[F. No. E-11017-1/2021-OL]

MOZAFFAR UDDIN ABDALI, Dy. Director General (EMM/OL)

नई दिल्ली, 7 जुलाई, 2023

का.आ. 1248.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है:-

पोस्टमास्टर जनरल,
उत्तरी क्षेत्र,
मुज़फ्फरपुर- 842002

[फा. सं. ई-11017-1/2021-रा.भा.]

मोजफ्फर उद्दीन अब्दाली, उप महानिदेशक (ईएमएम /राजभाषा)

New Delhi, the 7th July, 2023

S.O. 1248.—In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi:-

O/o The Postmaster General,
Northern Region,
Muzaffarpur-842002

[F. No. E-11017-1/2021-OL]

MOZAFFAR UDDIN ABDALI, Dy. Director General (EMM/OL)

नई दिल्ली, 27 जुलाई, 2023

का.आ. 1249.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है:-

प्रवर अधीक्षक डाकघर का कार्यालय,
अमृतसर मंडल,
अमृतसर- 143001

[फा. सं. ई-11017-1/2021-रा.भा.]

मोजफ्फर उद्दीन अब्दाली, उप महानिदेशक (ईएमएम /राजभाषा)

New Delhi, the 27th July, 2023

S.O. 1249.—In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi: -

Office of the Senior Superintendent of Post Offices,
Amritsar Division,
Amritsar- 143001

[F. No. E-11017-1/2021-OL]

MOZAFFAR UDDIN ABDALI, Dy. Director General (EMM/OL)

नई दिल्ली, 27 जुलाई, 2023

का.आ. 1250.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है:-

वरिष्ठ डाक अधीक्षक का कार्यालय,
बेंगलुरु पश्चिम मण्डल,
बेंगलुरु- 560086

[फा. सं. ई-11017-1/2021-रा.भा.]

मोजफ्फर उद्दीन अब्दाली, उप महानिदेशक (ईएमएम /राजभाषा)

New Delhi, the 27th July, 2023

S.O. 1250.—In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi:-

Office of the Senior Superintendent of Post Offices,
Bengaluru West Division,
Bengaluru- 560086

[F. No. E-11017-1/2021-OL]

MOZAFFAR UDDIN ABDALI, Dy. Director General (EMM/OL)

नई दिल्ली, 27 जुलाई, 2023

का.आ. 1251.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10 के उप नियम (4) के अनुसरण में, डाक विभाग के निम्नलिखित अधीनस्थ कार्यालय, जिसके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है:-

अधीक्षक डाकघर का कार्यालय,
गदग मंडल,
गदग-582101

[फा. सं. ई-11017-1/2021-रा.भा.]

मोजफ्फर उद्दीन अब्दाली, उप महानिदेशक (ईएमएम /राजभाषा)

New Delhi, the 27th July, 2023

S.O. 1251.—In Pursuance of sub rule (4) of Rule 10 of the Official Language (use for official Purposes of the Union) Rules 1976 (as amended in 1987), the Central Government hereby notifies following Sub-ordinate office of the Department of Posts, where more than 80% Officers/Officials have acquired the working knowledge of Hindi: -

Office of the Senior Superintendent of Post Offices,
Gadag Division,
Gadag - 582101

[F. No. E-11017-1/2021-OL]

MOZAFFAR UDDIN ABDALI, Dy. Director General (EMM/OL)

श्रम और रोजगार मंत्रालय

नई दिल्ली, 25 जुलाई, 2023

का.आ. 1252.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स ग्रीन गैस लिमिटेड, लखनऊ (उत्तर प्रदेश) के प्रबंधन के संबद्ध नियोजकों और श्री बसंत कुमार सिंह, प्रेजिडेंट, राष्ट्रीय मज़दूर कांग्रेस (इंटक), लखनऊ (उत्तर प्रदेश) के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ, के पंचाट (रिफरेन्स न.-84/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.07.2023 को प्राप्त हुआ था।

[सं. एल- 30011/35/2019-आई आर (एम)]

डी. के. हिमांशु, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYEMENT

New Delhi, the 25th July, 2023

S.O. 1252.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 84/2019 of the Central Government Industrial Tribunal cum Labour Court, Lucknow as shown in the Annexure, in the Industrial dispute between the employers in relation to M/s Green Gas Limited, Lucknow (Uttar Pradesh) and Shri Basant Kumar Singh, President, Rashtriya Mazdoor Congress (INTUC), Lucknow (Uttar Pradesh) which was received along with soft copy of the award by the Central Government on 25.07.2023.

[No. L- 30011/35/2019- IR(M)]

D. K HIMANSHU, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW****Present:** Justice ANIL KUMAR, Presiding Officer

I.D. No. 84/2019

No. L-30011/35/2019-IR(M) dated 29.11.2019

BETWEEN

Shri Basant Kumar Singh, President,
Rashtriya Mazdoor Congress (INTUC),
Plot No. 15, Sector-A, J.B. Garden, Near Pruvideen Khera,
Para Road, Rajajipuram, Lucknow (UP) - 226017.

AND

The Managing Director, M/s Green Gas Limited,
2nd Floor, Fortuna Tower, 10 Rana Pratap Marg,
Lucknow (UP) - 226001.

AWARD

By order No. L-30011/35/2019-IR(M) dated 29.11.2019 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

“Whether the claim raised by Rashtriya Mazdoor Congress (INTUC), Lucknow vide letter dated 27.08.2018 to M/s Green Gas Limited, Lucknow for regularization of the services of Shri Chandra Dev Sahu as a permanent employee of M/s Green Gas Limited, Lucknow is proper, legal and justified?”

Accordingly, an industrial dispute No. 84/2019, registered on 10.12.2019 before this Tribunal.

On 23.01.2020, on behalf of claimant, statement of claim was filed, inter alia stating therein that claimant/Chandra Dev Sahu appointed in the respondent establishment on 01.10.2006 as semi-skilled worker.

Thus, prayer made by claimant in his claim statement is that in view of the facts stated in para 1 to 14 of the claim petition, respondent may be directed to regularize the services of claimant/Chandra Dev Sahu w.e.f. date of his appointment and provide him all consequential benefits.

On 04.03.2020, behalf of the respondent, preliminary objection as well as written statement has been filed; wherein it has been submitted that the claimant is not an employee of the respondent/Green Gas Limited; but is contractual employee, engaged through M/s M-Five Security Private Limited for the period from 02.01.2018 to 31.03.2020.

It is further stated in the written statement that the respondent has neither appointed the workman nor issued any appointment letter of any nature, temporary or contractual, so, no question of regularization arises of workman in the establishment.

On 30.12.2020, the claimant filed rejoinder affidavit W-6 as well as an application u/s 33 of the Act, W-7.

On 03.01.2022, in addition to above documents the applicant filed an application (W-9) for withdrawal of present industrial dispute.

From perusal of the order sheet the position which emerged out is that on 30.12.2022, time was granted to the respondent to file its objections on the said applications.

On 16.02.2023, when the matter was taken up in revised list, neither the workman nor his legal representative was present.

Sri B.P. Singh, learned counsel for respondent was present.

Accordingly, heard Sri B. P. Singh, learned counsel for respondent and perused record.

Findings & Conclusion:

Thus, taking into consideration, the above said facts as well as the fact that after filing of statement of claim no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, the adjudication case is liable to be dismissed.

So, in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of **V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194** as under:

"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."

In the case of **M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164** Hon'ble Allahabad High Court has held as under:

"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."

And by the Hon'ble Allahabad High Court in the case of **District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519**; wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

Thus, taking into consideration the facts on record that in the present case the workman has not filed any oral/documentary evidence in support of his claim, so the same is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 25 जुलाई, 2023

का.आ. 1253.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स ग्रीन गैस लिमिटेड, लखनऊ (उत्तर प्रदेश) के प्रबंधन के संबद्ध नियोजकों और श्री बसंत कुमार सिंह, प्रेजिडेंट, राष्ट्रीय मज़दूर कांग्रेस (इंटक), लखनऊ (उत्तर प्रदेश) के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ, पंचाट (रिफरेन्स नं.-85/2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.07.2023 को प्राप्त हुआ था।

[सं. एल-30011/36/2019 -आईआर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 25th July, 2023

S.O. 1253.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 85/2019 of the Central Government Industrial Tribunal cum Labour Court, Lucknow as shown in the Annexure, in the Industrial dispute between the employers in relation to M/s Green Gas Limited, Lucknow (Uttar Pradesh) and Shri Basant Kumar Singh, President, Rashtriya Mazdoor Congress (INTUC), Lucknow (Uttar Pradesh) which was received along with soft copy of the award by the Central Government on 25.07.2023.

[No. L- 30011/36/2019- IR(M)]

D. K HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

Present: Justice ANIL KUMAR, Presiding Officer

I.D. No. 85/2019

No. L-30011/36/2019-IR(M) dated 29.11.2019

BETWEEN

Shri Basant Kumar Singh, President,
Rashtriya Mazdoor Congress (INTUC), Plot No. 15, Sector-A, J.B.
Garden, Near Pruvideen Khera,
Para Road, Rajajipuram, Lucknow (UP) - 226017.

AND

The Managing Director, M/s Green Gas Limited, 2nd Floor,
Fortuna Tower, 10 Rana Pratap Marg, Lucknow (UP)-226001.

AWARD

By order No. 30011/36/2019-IR(M) dated 29.11.2019 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

"Whether the claim raised by Rashtriya Mazdoor Congress (INTUC), Lucknow vide letter dated 27.08.2018 to M/s Green Gas Limited, Lucknow for regularization of the services of Shri Vinay Kumar Balmiki as a permanent employee of M/s Green Gas Limited, Lucknow is proper, legal and justified?"

Accordingly, an industrial dispute No. 85/2019, registered before this Tribunal on 10.12.2019.

Thereafter, on 23.01.2020, on behalf of the claimant, statement of claim has been filed, inter alia stating therein that claimant, Vinay Kumar Valmiki was appointed in the respondent establishment on 01.10.2006 as semi-skilled worker and he working regularly.

In view of the facts stated in the claim statement a prayer which has been made is that in view of the facts stated in para 1 to 14 of the claim petition, respondent may be directed to regularize the claimant, Vinay Kumar Valmiki w.e.f. date of his appointment and provide him all consequential benefits.

On 04.03.2020, behalf of the respondent, preliminary objection as well as written statement has been filed; wherein it has been submitted that the claimant is not an employee of the respondent/Green Gas Limited; but is contractual employee, engaged through M/s Hajaria Security Service for the period from 02.01.2018 to 31.03.2020.

It is further stated in the written statement that the respondent submitted that claimant was neither appointed as workman nor any appointment letter was issued, so, no question of regularization of workman arises in the establishment.

From perusal of the order sheet, the position, emerged out that on 04.03.2020 time was granted to the workman to file rejoinder affidavit.

On 18.02.2022, an order was passed that last opportunity is granted to workman to file its rejoinder affidavit on or before the next date of listing failing which the case shall proceed ex-parte.

On 03.01.2022, the workman was not present and Sri B.P. Singh, counsel for respondent was present and an order was passed, relevant portion is:

“Opportunity of rejoinder is closed.

Workman may file its evidence on affidavit.

List on 16.02.2023.”

Thereafter, on 16.02.2023, an order was passed for ex-parte hearing.

On 16.02.2023, when the matter was taken up in revised cause list, neither the workman nor his legal representative was present. Sri B.P. Singh, learned counsel for respondent was present.

Findings & Conclusion:

I have heard learned counsel for respondent Sri B.P. Singh and perused the record.

Thus, taking into consideration, the above said facts as well as the fact that no oral/documentary evidence has been filed on behalf of the claimant to support his claim, as such, the adjudication case is liable to be dismissed.

So, in view of the said facts, as well as the law laid by the Hon’ble High Court in the case of **V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194** as under:

“It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief.”

In the case of **M/s Uptron Powertronics Employees’ Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164** Hon’ble Allahabad High Court has held as under:

“The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led.”

And by the Hon’ble Allahabad High Court in the case of **District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519**; wherein it has been held as under:

“The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed.”

Thus, taking into consideration the facts on record that in the present case the workman has not filed any oral/documentary evidence in support of his claim, so the same is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 26 जुलाई, 2023

का.आ. 1254.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 27/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.07.2023 को प्राप्त हुआ था।

[सं. एल- 22012/64/2019--आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 26th July, 2023

S.O. 1254.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2019) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 25/07/2023

[No. L-22012/64/2019- IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 27 OF 2019

PARTIES: Sushil Kumar Bouri

Vs.

Management of Parascole (East) Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. S. K. Pandey, General Secretary, Colliery Mazdoor Congress.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 26.06.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/64/2019-IR(CM-II)** dated 12.07.2019 has been pleased to refer the following dispute between the employer, that is the Management of Parascole (East) Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of M/s. Eastern Coalfields Ltd. in relation its Parascole (East) Colliery under Kajora Area in imposing a punishment of dismissal on Shri Sushil Kumar Bouri, General Mazdoor of Parascole (East) Colliery w.e.f. 05-04-2016 vide order No. KA/APM/C-6/Dismissal-10/1323 dated 05-04-2016 is just and legal? If not, to what relief the workman is entitled to? ”

1. On receiving Order No. L-22012/64/2019-IR(CM-II) dated 12.07.2019 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 27 of 2019** was registered on 24.07.2019 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned advocate for the Management of Eastern Coalfields Limited is present. The case is fixed up today for appearance of Sushil Kumar Bouri, dismissed workman and filing written statement. On repeated call at 12:40 PM neither the workman nor Mr. S. K. Pandey, union representative are found available. The record reveals that in compliance with order dated 01.05.2023, Notice under registered post was issued in the name of Sushil Kumar Bouri directing him to appear before this Tribunal today.

3. The Management of Eastern Coalfields Limited appeared through their advocate and filed written statement on 27.07.2022 along with documents. The workman did not take steps and subsequently, notice was issued to the workman at his address at Vill.- Mukundpur, PO- Siduli, PS- Andal, Dist.- Paschim Bardhaman, Pin- 713322. The Notice under registered post was not returned unserved. Therefore, it is presumed that the Notice was served upon the addressee. Considering such circumstance, I am of the opinion that the charge of misconduct under clause 26:29 of the Certified Standing Orders was established against Sushil Kumar Bouri for which he was dismissed from service. As the workman is not inclined to proceed with this case, the Industrial Dispute is disposed of in the form of a **No Dispute Award**.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 26 जुलाई, 2023

का.आ. 1255.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 16/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/07/2023 को प्राप्त हुआ था।

[सं. एल- 22012/299/2007-आई आर (सी. एम-II)]

मणिकंदन एन., उप निदेशक

New Delhi, the 26th July, 2023

S.O. 1255.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 25/07/2023

[No. L-22012/299/2007 - IR(CM-II)]

MANIKANDAN N., Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,
ASANSOL.**

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 16 OF 2008

PARTIES: Smt. Bijli Kroa

Vs.

Management of Madhusudanpur Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. S. K. Pandey, Union representative.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.
STATE: West Bengal.
Dated: 26.06.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/299/2007-IR(CM-II)** dated 09.05.2008 has been pleased to refer the following dispute between the employer, that is the Management of Madhusudanpur Colliery of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Madhusudanpur Colliery of M/s. ECL in not providing employment to the dependent wife (Smt. Bijli Kroa) of Late Pratham Kroa is legal and justified? To what relief is the dependent of the deceased workman entitled? ”

1. On receiving Order **No. L-22012/299/2007-IR(CM-II)** dated 09.05.2008 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 16 of 2008** was registered on 13.04.2009 and an order was passed issuing Notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned advocate for Eastern Coalfields Limited is present along with Proloy Dasgupta, Manager (Personnel), Madhusudanpur Colliery. The case is fixed up today for appearance of Bijli Kroa, wife of Late Pratham Kroa and for hearing of argument. It is 1:00 PM now. On repeated calls none appeared for Bijli Kroa. As per order dated 08.05.2023, Notice under registered post were sent to Smt. Bijli Kroa at her address stated in affidavit-in-chief filed on 31.03.2016. Postal envelope returned unserved with an endorsement of Postman “Deceased. Return”.

3. Written statement was submitted by the Union on behalf of the dependent of the workman on 05.01.2010 and by the Management on 25.04.2013. Bijli Kroa was examined as workman witness - 1. She was cross-examined on 31.03.2016. She had claimed for employment under Eastern Coalfields Limited as dependent of her husband. It appears from affidavit-in-chief that husband of the petitioner was dismissed from service due to unauthorized absence. Order of dismissal was challenged in Reference Case No. 134 of 1999 and after hearing both parties, an Award was passed setting aside the Order of Dismissal with a direction to the Management to reinstate Pratham Kroa and pay him back wages. The Management did not implement the Award and in meantime, her husband died on 02.07.2003. Back wages in respect of Pratham Kroa was paid to Bijli Kroa in the year 2005. Subsequently, in her affidavit-in-chief she stated that she filed application for employment of her son, Manish Kroa in place of her husband. She also submitted papers before the Management for providing employment to her son. However, in the Schedule of the Reference, the question formulated is not regarding providing employment to the dependent son but to the wife.

4. In the case of **Axis Bank vs. Union of India and others [2022 (175) FLR 2571]** the Hon’ble High Court of Calcutta held that :

“The Labour Tribunal under the Industrial Disputes Act has a limited authority and jurisdiction to proceed only with the reference arose from the conciliation proceeding and cannot travel beyond the scope of reference. The tribunal does not have jurisdiction also to adjudicate the validity, correctness and legality of the reference.”

5. Following the settled principle of law, the question of providing employment to the son of Pratham Kora is beyond the scope of reference. Therefore, the prayer of the wife of Pratham Kora for providing employment of her son appears to be inconsistent with the Reference made before this Tribunal in the Schedule. No Corrigendum of the Schedule has been received. Moreover, I find that Smt. Bijli Kora has expired and no step has been taken on her behalf for substitution.

6. In view of such circumstance, the Reference case is dismissed. Manish Kora, son of Smt. Bijli Kora shall have liberty to approach the Management of Madhusudanpur Colliery for processing his prayer for employment in accordance with law and agreements entered into between the representative of the workman and the Management.

Hence,

ORDERED

that the Reference case is dismissed. An award be drawn up in the light of the above finding. Let copies of the Award in duplicate be communicated to the Ministry of Labour and Employment, Government of India for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 26 जुलाई, 2023

का.आ. 1256.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 04/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.07.2023 को प्राप्त हुआ था।

[सं. एल-22012/162/2018 -आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 26th July, 2023

S.O. 1256.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 04/2019) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 25/07/2023

[No. L- 22012/162/2018 - IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT ASANSOL.

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE No. 04 OF 2019

PARTIES: Kartick Das

Vs.

Management of Madhaipur Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Kartick Das (in person).

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.
STATE: West Bengal.
Dated: 27.06.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/162/2018-IR(CM-II)** dated 31.12.2018 has been pleased to refer the following dispute between the employer, that is the Management of Madhaipur Colliery under Pandaveswar Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the Management of Madhaipur Colliery of Pandaveswar Area of Eastern Coalfields Ltd in denial of upgradation from T&S Gr. C to T&S Gr. B w.e.f. 1-5-2015 on promotion in respect of Sri Kartick Das, Jr. Overman is justified or not? If not, what relief the workman is entitled to? ”

1. On receiving Order **No. L-22012/162/2018-IR(CM-II)** dated 31.12.2018 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 04 of 2019** was registered on 24.01.2019 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. The case was fixed up on 19.06.2023 for appearance and filing written statement by Kartick Das, the workman. Mr. P. K. Das, learned advocate appeared for the Management of Eastern Coalfields Limited. Written statement has already been filed by Eastern Coalfields Limited. On repeated call at 1:00 PM none appeared for Kartick Das. No Union representative from Koyala Khadan Shramik Congress (INTTUC) has appeared to represent the workman. Consecutive Notice were sent to the workman on the basis of orders dated 20.09.2022 and 20.02.2023.

3. Since none appeared for the workman, Industrial Dispute referred to this Tribunal for adjudication regarding upgradation of post from Technical and Supervisory Grade ‘C’ to Technical and Supervisory Grade ‘B’ w.e.f. 01.05.2015 on promotion of Kartick Das is dismissed. Under such circumstances, the reference is disposed of in the form of a **No Dispute Award**.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 26 जुलाई, 2023

का.आ. 1257.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 89/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.07.2023 को प्राप्त हुआ था।

[सं. एल- 22012/262/2004-आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 26th July, 2023

S.O. 1257.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 89/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 25/07/2023

[No. L-22012/262/2004-IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.**

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE No. 89 OF 2005

PARTIES: Memul Mia

Vs.

Management of Monoharbahal Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Goswami, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 30.06.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/262/2004-IR(CM-II)** dated 07.07.2005 has been pleased to refer the following dispute between the employer, that is the Management of Monoharbahal Colliery under Salanpur Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Monoharbahal Colliery under Salanpur Area of M/s Eastern Coalfields Limited in not rectifying the date/year of birth of Memul Mian, Drillier is legal and justified? If not, to what relief the workman is entitled? ”

1. On receiving Order **No. L-22012/262/2004-IR(CM-II)** dated 07.07.2005 from the Government of India, Ministry of Labour, New Delhi, a **Reference case No. 89 of 2005** of Industrial Dispute was registered on 17.08.2005 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Written statement has been filed by Memul Mia on 28.08.2006 through Mr. Rakesh Kumar, President, Koyala Mazdoor Congress wherein it is contended that on his appointment as a driller at Barmondia Monoharbahal Colliery under Salanpur Area of Eastern Coalfields Limited (hereinafter referred to as ECL), his date of birth was recorded as 06.03.1949. The said date of birth along with other service particulars were communicated to the workman through his Service Excerpt in the year 1987. According to the decision of JBCCI his date of birth was 06.03.1949 and Memul Mia raised no objection against his date of birth appearing in his service record.

3. According to the aggrieved workman the Management of Barmondia Monoharbahal Colliery of ECL changed his date of birth on their own. He then raised objection and requested not to change his date of birth appearing in the old 'B' Form Register which was communicated to him through his service excerpt in the year 1987. According to the prevailing practice and norms of the company if a workman raised any objection against the date of birth appearing in his service record, if the dispute raised is found justified then the management could assess the age of the workman through “Apex Medical Board” for correction of date of birth or on the basis of documents. In the instant case no dispute was raised by the workman but the management of ECL changed his date of birth. It is claimed that according to his physical appearance at the relevant time he did not appear more than fifty years of age, as such the management should not have interfered with his date of birth. It is urged that according to medical jurisprudence only average age like 50 to 55 years or 45 to 50 years could be assessed and the middle point of the assessed age was accepted, but in the instant case management determined his year of birth as 1946 which is unjust and unacceptable by him.

4. Memul Mia raised objection against the change in his date of birth but no action was taken by the management giving rise to in this Industrial Dispute which was raised before the Assistant Labour Commissioner (Central), Asansol. On a failure to reach any settlement, the Ministry referred the Industrial Dispute before this Tribunal for adjudication. The petitioner/workman claimed his date of birth to be 06.03.1949, which appeared in his

old 'B' Form Register and Service Record Excerpt (hereinafter referred to as SRE) so that Memul Mia was entitled to continue in his service up to 31.03.2009.

5. Management filed their written statement on 13.01.2016 after superannuation of Memul Mia. The case was initially fixed up for ex-parte hearing. The order for ex-parte hearing was vacated and the case was taken up for contested hearing. In their written statement Management of ECL stated that the relief for declaring date of birth of the workman is within the jurisdiction of the Civil Court and is not maintainable before this Tribunal. It is the contention of the Management of ECL that a declaration relating to age can be made only by a Civil Court. Further contention of ECL is that the workman raised age dispute along with other workman and their age was assessed according to the provisions of National Coal Wage Agreement (NCWA). It is urged that the Medical Board assessed the age of Memul Mia as forty years on 07.06.1986 which is entered in the 'B' Form Register. The workman accordingly retired from his service on 30.06.2006 and following all the norms of the company superannuation Notice was issue to Memul Mia on 21.02.2006. It is contended that Memul Mia has already superannuated and his relationship with the employer company has seized. Accordingly, it is claimed that Memul Mia is not entitled to any relief in this case.

6. The aggrieved workman examined himself as workman witness – 1. He filed his affidavit-in-chief reiterating his case disclosed in the written statement. It is claimed that the Industrial Dispute has been raised by him through the Ministry before his superannuation as such the order of his superannuation from service is illegal and unjust. The Management should allow him to continue his service treating his date of birth as 06.03.1949 and also pay him the back wages for the period of his forced idleness. In cross-examination Memul Mia (ww-1) admitted that he has no document to show that his date of birth is 06.03.1949.

7. Mr. Devendra Kumar, Senior Officer (Personnel) at Gourandi Group of Mines under ECL was examined as Management witness – 1 on 16.01.2023. The witness produced the original 'B' Form Register of Monoharbahal Colliery under Sitarampur Area of ECL wherein Memul Mia's name appeared against serial no. 148225. It is deposed by him that initially the date of birth of Memul Mia was recorded as 06.03.1949. Subsequently, after age assessment held on 07.06.1986 at Sitarampur Area, the year of birth of the workman was assessed as 1946. The assessed age was also communicated to him under letter no. ECL/STA/C-61/Conf/ dated 13/19.08.1986 issued by the Deputy Chief Personnel Manager of Sitarampur Area. The entries in the Column No. - (4) of the 'B' Form Register has been marked as Exhibit M-1. A photocopy of the B' Form Register which was compared with the original has been marked as Exhibit M-1/1 and the original B' Form Register was returned to the Management. In course of cross-examination, the witness deposed that Memul Mia was appointed on 15.04.1969. Witness identified the Identity Card of Memul Mia and the same is marked as Exhibit W-1. The witness admitted that at the time of appointment the date of birth of Memul Mia was recorded as 06.03.1949 and the SRE issued by the company is identified by the witness and marked as Exhibit W-2. Witness deposed that Memul Mia did not raise any dispute regarding his date of birth mentioned in the SRE. It was further deposed by the MW-1 that even if the workman did not raise any dispute, the management by dint of their Circular could seek determination of a person's age. The witness denied the suggestion that Memul Mia was unlawfully superannuated three years prior to his actual date of superannuation.

8. The points for consideration are whether the dispute relating to age is maintainable before this Tribunal, whether the action of the Management of ECL in changing the date of birth from 06.03.1949 to 1946 as year of birth is justified, and to what relief Memul Mia is entitled to? Though this case involves a question related to a workman's date of birth which has been changed by the employer, I hold that it gives rise to an Industrial Dispute and can be adjudicated only under the Industrial Disputes Act, 1947 and not by the Civil Court under Section 9 of the Code of Civil Procedure. This Tribunal is therefore vested with the jurisdiction to consider such dispute relate to date of birth.

9. At the outset Mr. Rakesh Kumar, Union representative argued that Memul Mia was appointed at Monoharbahal Colliery under Sitarampur Area on 15.04.1969 and his date of birth was recorded as 06.03.1949. The workman did not raise any objection regarding his recorded date of birth and there was no occasion for determination of his age by the Medical Board. It is vehemently argued on behalf of the workman that Memul Mia was surprised to note that his age had been increased by the Management by three (3) years, resulting in his premature superannuation on 30.06.2006 instead of 31.03.2009. Mr. Kumar relied upon Exhibit W-1 (a copy of the Identity Card issued to Memul Mia at the time of his appointment) and Exhibit W-2 (a copy of the SRE wherein, the date of birth of the workman was recorded as 06.03.1949). Referring to the provisions of Implementation Instruction No. 76, Mr. Kumar argued that without raising any objection or dispute by the workman against the date of birth recorded in his SRE, there is no scope for the employer to refer an employee for his age determination. It is argued that there is no basis for the alleged age assessment of Memul Mia whereby, the Management treated Memul Mia as forty (40) years of age on 07.06.1986. It is also pointed out that Mr. Devendra Kumar, Senior Officer (Personnel) at Gourandi Group of Mines under ECL (Management witness -1) in his cross-examination has admitted that at the time of appointment the date of birth of Memul Mia was entered in the Service Record as 06.03.1949 and the company was not in a position to produce any document that Memul Mia opted for age determination. It is argued that the workman cannot suffer for unreasonable act on the part of the Management and he should be paid the back wages for three years, that is until he reached his age of superannuation on 31.03.2009.

10. In reply Mr. P. K. Goswami, learned advocate for the Management of ECL argued that Memul Mia is not a literate person and the employer company as per Implementation Instruction No. 76 has the authority to determine the age of an employee through Colliery Medical Officer. It is argued that there was no error on the part of the company in determining the age of Memul Mia on 07.06.1986 which has been recorded in the 'B' Form Register produced before this Tribunal (Exhibit M-1/1).

11. I have considered the arguments advanced by the learned advocate for the Management of ECL and the Union representative for the aggrieved workman. I have also examined the documents produced and evidence adduced by the respective parties. The admitted fact in this case is that Memul Mia's date of birth was recorded in the 'B' Form Register as 06.03.1949 at the time of his appointment in the year 1969. The workman did not raise any objection in respect of his date of birth. It is also admitted by workman witness – 1 in his cross-examination that he has no document to produce in support of his date of birth. Admittedly the concerned workman is illiterate and he did not attend any school where his date of birth could have been recorded at the instance of his guardian. On a perusal of Implementation Instruction No. 76 of NCWA - III dated 25.04.1988, it appears in Clause (5) that it had been agreed that the entire data in the Service Record should be computerized and a copy should be retained at the Colliery / Project / Area / Subsidiary level and at the Headquarters of Coal India and such undisputed cases would not be reopened. For this purpose, a procedure was formulated for determination and verification of age of employees and the earlier Implementation Instruction No. 37 dated 05.02.1981 was revised. In Annexure – I of Implementation Instruction No. 76 procedure for determination and verification of age of employees was laid down to the effect that if at the time of appointment in service a person was a matriculate, the date of birth recorded in the matriculation or equivalent examination was to be treated as correct date of birth and the same would not be altered under any circumstances.

12. In case of non-matriculate but educated persons who pursued study in recognized institution the date of birth recorded in the School Leaving Certificate (SLC) would be treated as correct date of birth and the same would not be altered under any circumstances.

13. In case of ex-servicemen who are not matriculates, the date of birth recorded in the Army Discharge Certificate was to be treated as correct date of birth.

14. In the case of appointment of persons who are illiterate, not covered in the earlier clauses, their date of birth would be determined by the Colliery Medical Officer, keeping in view any documentary and other relevant evidence as produced by the appointee and the date of birth determined would be treated as correct and the same would not be altered under any circumstances.

15. In the case of Memul Mia it is evident that he is illiterate and his date of birth recorded in the old service record had no foundation except that it had been recorded at an earlier point of time. Therefore, it was open for the Management of the company to determine the age / date of birth of the workman by the Colliery Medical Officer, keeping in view any documentary and other relevant evidence as produced by the appointee. The workman had been informed of the result of his age assessment under letter no. ECL/STA/C-61/Conf/ dated 13/19.08.1986 issued by the Deputy Chief Personnel Manager of Sitarampur Area. The age so assessed was entered in Column no. - (4) of the 'B' Form Register. I find that the year of birth of the workman was assessed as 1946 as per the assessment held by the Age Assessment Committee on 07.06.1986.

16. Implementation Instruction No. 76 does not give any prerogative to the employee that age of an illiterate workman can be determined only when he raised any dispute. If certain conditions were not fulfilled then the Management of the company was dutybound to assess the age of the workman through the Colliery Medical Officer. Therefore, the Management of ECL has committed no illegality by holding age determination / assessment of Memul Mia even without his asking for it.

17. In such view of the matter, I hold that employer company is justified in assessing the age of the workman in terms with the provisions of Implementation Instruction No. 76. The Management of the company did not commit any illegality in assessing the age of Memul Mia according to their established and admitted procedure determining his age as forty (40) years as on 07.06.1986. The workman is not found entitled to any relief as claimed by him. Therefore, the Industrial Dispute raised by the workman has no merit and the same is dismissed on contest.

Hence,

ORDERED

that the Industrial Dispute is dismissed on contest. Let an award be passed in terms of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 26 जुलाई, 2023

का.आ. 1258.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 29/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.07.2023 को प्राप्त हुआ था।

[सं. एल- 22012/101/2018-आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 26th July, 2023

S.O. 1258.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2018) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 25/07/2023

[No. L-22012/101/2018 - IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE No. 29 OF 2018

PARTIES: Tapan Kora

Vs.

Management of Jambad Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 27.06.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/101/2018-IR(CM-II)** dated 01.11.2018 has been pleased to refer the following dispute between the employer, that is the Management of Jambad Colliery of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Jambad Colliery of Eastern Coalfields Ltd. in rejecting mercy petition for reinstatement of service in respect of dismissed employee Sri Tapan Kora is justified? If not, what relief the concerned workman is entitled to?”

1. On receiving Order **No. L-22012/101/2018-IR(CM-II)** dated 01.11.2018 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 29 of 2018** was registered on 20.11.2018 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned advocate appeared for Eastern Coalfields Limited. Mr. Rakesh Kumar, union representative appeared for the workman, Tapan Kora. The case was fixed up on 23.06.2023 for filing written statement by the workman. Several opportunities were granted to the workman for appearing since 2018 but no appropriate step has been taken by him.

3. The Management of Jambad Colliery, Eastern Coalfields Limited filed written statement with an account of absence of workman during the period from 1997 to 1999 and further stated that he was a habitual absentee and remained absent from 07.02.2000 to 28.04.2000 without any authorized leave or information to appropriate authority, for which the Charge Sheet was issued to him. Considered the facts. It appears to me that the workman lacked interest and not found diligent. Ample opportunities were given to participate in the inquiry but he did not make any attempt to contest. The employer company is therefore justified in dismissing the workman. After issuing Notice, Mr. Rakesh Kumar, union representative could not secure attendance of the workman to pursue this case. No written statement has been filed on behalf of workman in the last five years. Under such circumstances, I am of considered view that the dismissed workman is not inclined to proceed further. The Industrial Dispute is therefore disposed of in the form of a **No Dispute Award**.

Hence,

ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 26 जुलाई, 2023

का.आ. 1259.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 08/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.07.2023 को प्राप्त हुआ था।

[सं. एल- 22012/33/2015-आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 26th July, 2023

S.O. 1259.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 08/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 25/07/2023

[No. L- 22012/33/2015 - IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 08 OF 2015

PARTIES: Sushil Dome

Vs.

Management of Chinakuri Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 23.06.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour, vide its Order **No. L-22012/33/2015-IR(CM-II)** dated 01.07.2015 has been pleased to refer the following dispute between the employer, that is the Management of Chinakuri Colliery under Sodepur Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the Management of Chinakuri Colliery under Sodepur Area of M/S. ECL in dismissing Shri Sushil Dome, Explosive Carrier w.e.f. 13.05.1999 is legal and justified? If not, to what relief the workman concerned is entitled to? ”

1. On receiving Order **No. L-22012/33/2015-IR(CM-II)** dated 01.07.2015 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 08 of 2015** was registered on 14.07.2015 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Sushil Dome, the dismissed workman filed his written statement on 23.09.2015 through Mr. Rakesh Kumar, President, Koyala Mazdoor Congress (HMS), wherein it is stated by him that he was a permanent employee at Chinakuri Mine No. III under Sodepur Area of Eastern Coalfields Limited (hereinafter referred to as ECL), having U.M. No. 112642, working as an Explosive Carrier. Due to his illness from 10.08.1998 he was unable to attend his duty. After recovery from illness, he reported for duty but he was not allowed to join. On 15.02.1999 a Charge Sheet was issued to him, but the same was not handed over to him and was sent to his native place at his home address which he never received. The Management of the Colliery appointed an Enquiry Officer for conducting a Departmental Enquiry against him. In course of time the Enquiry Officer issued a Notice of Enquiry under registered post on 24.02.1999, fixing 04.03.1999 for Enquiry. The Enquiry Officer sent Notice for attending the enquiry on 19.03.1999 and lastly on 07.04.1999 but none of the Notice were served upon him. Sushil Dome could not attend the Enquiry Proceeding and the Enquiry Officer conducted an ex-parte enquiry without giving him opportunity to defend himself and found him guilty. The Management without issuing any 2nd Show Cause Notice to him issued the Order of Dismissal from service, contrary to the law laid down by the Hon'ble Supreme Court of India and the guidelines issued by the Coal India Limited (CIL). According to Sushil Dome he was not given opportunity to defend the case before the Enquiry Officer, which resulted in breach of natural justice. It is further contended that the punishment of dismissal passed against him is harsh and disproportionate which could have been avoided by imposing a lighter punishment.

3. According to the aggrieved workman he is an illiterate person, belonging to the Schedule Cast community, in the lower rungs of the society. It is urged that he has filed a Mercy Petition before the company on 02.03.2012 for his reinstatement and according to a Memorandum of Settlement signed by the Management of ECL before Regional Labour Commissioner (Central), Asansol on 22.05.2007 a person below the age of forty-five years and absent for less than nine months could be reinstated in service. However, the prayer of the workman has not been considered. The workman prayed for setting aside the Order of Dismissal dated 13.05.1999 and direct the Management of the company to allow him to join his duty and also pay him full back wages with all consequential benefits for his forced idleness.

4. The Management of Chinakuri Group of Mines, ECL filed their written statement through Deputy Manager (Personnel), Chinakuri Colliery, ECL on 18.04.2017, wherein it is stated that the Management issued Charge Sheet against the workman for his unauthorized absence from duty, consistent with the provisions of standing Order applicable to the establishment. The workman failed to submit any satisfactory explanation regarding his unauthorized absence from duty from 10.09.1998 to 14.02.1999 for which a Departmental Enquiry was held by the Enquiry Officer and Notice of Enquiry was sent to his home address. The workman did not participate in the Enquiry Proceeding in spite of receipt of Notice of Enquiry. The Enquiry Proceeding was held ex-parte. The charge of misconduct was fully established against the workman. After careful consideration of the Charge Sheet, Enquiry Proceeding, Enquiry Report and all connected documents the Disciplinary Authority passed an Order of Dismissal of Sushil Dome w.e.f. 13.05.1999. After long lapse of time workmen's union raised an Industrial Dispute before the Conciliation Officer, which failed. Management denied that the workman was not given opportunity to defend himself before the Enquiry Officer or there is breach of natural justice in course of the Enquiry Proceeding or the workman is illegally dismissed from service, resulting in disproportionate punishment.

5. According to the Management of ECL Sushil Dome attended his duty for 71 days in 1996, 144 days in 1997 and 72 days in 1998. It is contended that the workman is a habitual absentee and does not deserve any consideration for reinstatement in service.

6. Sushil Dome filed an affidavit-in-chief and was cross-examined on behalf of ECL. The workman relied upon the following documents which are admitted in the evidence :

(i) Photocopy of the Identity Card (marked as Exhibit WW-I).

- (ii) Photocopy of the Charge Sheet (marked as Exhibit WW-II).
- (iii) Photocopy of the Dismissal Letter (marked as Exhibit WW-III).
- (iv) Photocopy of the Mercy Petition (marked as Exhibit WW-IV).
- (v) Photocopy of the 2nd Mercy Petition (marked as Exhibit WW-V).
- (vi) Photocopy of a letter issued by the Assistant Manager (Personnel) to reinstate the workman along with others (marked as Exhibit WW-VI).
- (vii) Photocopy of the Memorandum of Settlement dated 22.05.2007 relating to the company's policy of reinstatement of dismissed employee due to absence (marked as Exhibit WW-VII).
- (viii) Photocopy of the Circular dated 12.05.1994 issued by the Director (P&IR), CIL to all executives working in the company regarding mandate for supply of Enquiry Report to the charge sheeted employee and issuance of 2nd Show Cause Notice before imposing punishment (marked as Exhibit WW-VIII).

7. The Management of ECL examined Mr. Sumanta Bhattacharya, Assistant Manager (Personal) at Chinakuri Colliery as Management witness – 1. He has filed an affidavit-in-chief on 24.04.2023 and produced the following documents which have been admitted in evidence :

- (i) Photocopy of the Charge Sheet issued to Sushil Dome (marked as Exhibit M-1).
- (ii) Photocopy of the Postal Envelope dated 15.02.1999 in which Charge Sheet was sent (marked as Exhibit M-2).
- (iii) Photocopy of the letter dated 16.02.1999 for appointment of the Enquiry Officer (marked as Exhibit M-3).
- (iv) Photocopy of the Notice for Enquiry (marked as Exhibit M-4, M-5, and M-6).
- (v) Photocopy of the Postal Envelopes in which the Notice were sent (marked as Exhibit M-4/A, M-5/A, and M-6/A).
- (vi) Photocopy of the Report of the Enquiry Officer (marked as Exhibit M-7).
- (vii) Photocopy of the Note Sheet regarding dismissal of Sushil Dome (marked as Exhibit M-8).
- (viii) Photocopy of the letter of dismissal issued by the Chief General Manager, Sodepur Area addressed to the Agent, Chinakuri Group (marked as Exhibit M-9).
- (ix) Photocopy of the letter of dismissal dated 13.05.1999 issued to Sushil Dome (marked as Exhibit M-10).

8. The case came up for final hearing on 05.06.2023 when learned advocate for the Management as well as Union representative advanced their argument in support of the respective parties. Mr. Rakesh Kumar, Union representative argued that Sushil Dome, a permanent employee of Chinakuri Mine No. III was admittedly absent for sometime due to his illness but the Management of the company without serving any Charge Sheet or Notice of Enquiry, held an Enquiry Proceeding against the workman without affording any opportunity to him to defend his case and thereby violated natural justice. In the Enquiry Proceeding the workman was held guilty of misconduct for unauthorized absence. It is argued that the copy of Enquiry Proceeding was not supplied to the workman and without supplying a copy of 2nd Show Cause Notice to the workman, the workman was dismissed, without having opportunity to submit any explanation or defend his case. Mr. Rakesh Kumar argued that the letter of dismissal from service passed by the Manager, Chinakuri Mines No. III dated 13.05.1999 is contrary to the Circular bearing No. CIL C-5A(VI)/50774/28 dated 12.05.1994, whereby it was communicated to all executives working in the company and its subsidiaries that the law laid down by the Hon'ble Supreme Court of India in **Union of India and Others vs Mohd. Ramzan Khan [AIR (1991) SC 471]** would operate in prospective manner which will be applicable to the order of punishment passed after 20th November, 1990. It is argued that in the instant case the Order of Dismissal has been passed on 13.05.1999 without complying the direction. Furthermore, the Order of Dismissal was not passed by the Disciplinary Authority or the appropriate authority thereby, the impugned Order of Dismissal passed against Sushil Dome is liable to be set aside and the aggrieved workman should be reinstated in his service.

9. Mr. P. K. Das, learned advocate for the Management in his reply admitted that Sushil Dome was a permanent employee at Chinakuri Mine No. III, where he was posted as an Explosive Carrier. It is argued that the concerned workman was a habitual absentee and due to his unauthorized absence from 10.08.1998 without any prior intimation till 15.02.1999, a Departmental Enquiry was initiated by issuing a Charge Sheet against him for his habitual and unauthorized absence from duty causing dislocation of company's work and inconvenience of fellow workers. The workman did not participate in the enquiry though three Notice of the enquiry were sent to him under registered post at his address mentioned in the 'B' Form Register. The workman avoided such Notice as a result an ex-parte enquiry was held against him. Learned advocate for the Management vehemently argued that the workman intentionally

avoided the Notice sent to him at his registered address and after considering the materials emerging in the course of enquiry, Sushil Dome was found guilty of charge of misconduct. In the Enquiry Report submitted by the Enquiry Officer (Exhibit M-7) it was held that Sushil Dome had absented from duty from 10.08.1998 without informing his higher authority or disclosing reason of his absence. It was further found that the workman did not avail any treatment from the company's Dispensary or Hospital during the period. Furthermore, Sushil Dome did not respond to the Notice of Enquiry sent to him on three occasions. Therefore, it was appropriately found that the workman deliberately remained absent. The Enquiry Officer held that the charges levelled against the workman vide Charge Sheet dated 15.02.1999 was proved beyond doubt. The Chief General Manager of Sodepur Area in his letter dated 05.05.1999 issued to the Agent of Chinakuri Group observed that the charges against Sushil Dome are grave and there was no extenuating circumstances on record so, Sushil Dome be dismissed from service with immediate effect (Exhibit M-9). Learned advocate for the Management argued that the dismissal of the workman is justified and in consonance with his conduct. It is argued that the workman has filed an application for reinstatement on 02.03.2012, after more than thirteen years and has no merit to consider such application.

10. I have considered the rival contention of the workman as well as the Management. Admittedly Sushil Dome was a permanent employee under ECL until he was dismissed from service on 13.05.1999. It is undisputed that the workman had remained absent from 10.08.1998 and did not participate in Departmental Enquiry held against him. From the written statement of the workman as well as his affidavit-in-chief it is gathered that the workman was aware about issuance of Charge Sheet against him on 15.02.1999. However, his contention is that the Charge Sheet was not handed over to him personally. The workman did not produce any document before the Management in support of his illness. The evidence of Management witness-1 disclose that three Notice of enquiry were sent to the workman under registered post with Acknowledgement Due (A/D). Management witness produced photocopy of three Notice of enquiry which were sent to him under registered post as Exhibit M-4, M-5, and M-6. Photocopies of three postal envelopes bearing the address of Sushil Dome as Vill: Jemhari, Po: Salanpur, Dist.: Burdwan which contained the Enquiry Notice have been marked as Exhibit M-4/A, M-5/A, and M-6/A. It appears that the same were returned to the sender at Chinakuri 3 Pit Colliery with endorsement that addressee was absent on seven consecutive days. There is no case in the written statement of the worker that he is not a resident of Vill: Jemhari, Dist.: Burdwan or that such address not mentioned in the 'B' Form Register. It is therefore evident that the workman intentionally avoided service of Notice relating to the enquiry for the purpose of taking a plea at a later time that Enquiry Proceeding was held against him without providing him opportunity to defend his case. The workman admittedly knew that a Charge Sheet was issued against him and he should be diligent about his duty to participate in the Enquiry Proceeding. To fairly raise necessary defense and explain the reason of absence from duty for such a long time. The Enquiry Report, in five pages (Exhibit M-7) reveals that Sushil Dome was not found available in his local residence. He joined Chinakuri Mine No. III on 09.09.1994 on his transfer. It also appears that the workman attended his duty for 71 days in 1996, 144 days in 1997 and 72 days in 1998. Due to such absence the charge levelled against him was proved beyond doubt and he has been dismissed from his service. Even at this stage the workman could not justify his absence from duty. In his cross-examination Sushil Dome stated that he was absent from duty due to his illness as well as the death of his wife. In the same breath the workman stated that his wife expired after his dismissal from service and he fell sick after the death of his wife. Therefore, it is evident that the workman complained of his illness only after the death of his wife i.e. after his dismissal. Further cross-examination of workman witness – 1 reveals that due to pain in his legs he was unable to travel to his place of work. He admitted that he did not submit any medical treatment document before the Management of ECL at any time and even at the time he went to join his duty. On a close reading of the entire evidence, I have no doubt in my mind that the dismissed workman Sushil Dome had abstained from his duty without any reasonable cause.

11. The second fact of this Industrial Dispute is whether the dismissal of the workman is justified? The Management of ECL could not produce any postal envelope or A/D card to establish that a copy of Charge Sheet (Exhibit M-1) was served upon Sushil Dome. After an ex-parte enquiry against the workman the Enquiry Officer found that the charge of unauthorized absence and misconduct were proved against the workman. The Enquiry Report of the Enquiry Officer and his findings, including the statement made by the witness has been collectively produced as Exhibit M-7. The Chief General Manager, Sodepur Area communicated his decision of dismissing the workman by letter dated 05.05.1999 addressed to the Agent of Chinakuri Group (Exhibit M-9). No formal Order of Dismissal has been passed by the Chief General Manager. On a perusal of the letter of dismissal I find that the Disciplinary Authority i.e. The Chief General Manager, Sodepur Area had considered the Charge Sheet and the Report of the Enquiry Officer before dismissing Sushil Dome. There is no mention in the letter of dismissal that any second Show Cause Notice was issued to Sushil Dome or that a copy of the Enquiry Report was served upon him, providing him an opportunity to make any representation against the findings of the Enquiry Officer. The Management witness in his cross-examination admitted that no 2nd Show Cause Notice was sent to the workman before his dismissal. In this context it would be relevant to refer to the Exhibit WW-VIII, which is a Circular dated 12.05.1994 wherein, the Director (P&IR), CIL clearly indicated that the law laid down in Mohd. Ramzan Ali's case would operate prospectively to the orders of punishment passed after 20th November, 1990. The Enquiry Report should be supplied to the charged employee and while communicating the final order it must be mentioned that the representation of the employee was taken into consideration by the Disciplinary Authority.

12. In the case of **Union of India and Others vs Mohd. Ramzan Khan [AIR (1991) SC 471]**, the Hon'ble Supreme Court of India laid down the law as follows:

"When the Inquiry Officer is not the Disciplinary Authority, the delinquent employee has a right to receive a copy of the Inquiry Officer's report before the Disciplinary Authority arrives at its conclusion with regard to the charges levelled against him. A denial of the inquiry officer's report before the Disciplinary Authority takes its decision on the charges, is denial of opportunity to the employee to prove his innocence and is a breach of principles of natural justice."

13. In the case of **Managing Director, ECIL, Hyderabad vs. B. Karunakaran [1993 (3) SLR 532 (SC)]**, the Hon'ble Supreme Court of India on further examination laid down the following guidelines and direction :

"It is evident where the Inquiry Officer is other than the Disciplinary Authority, the disciplinary proceeding break into two stages. The first stage when the Disciplinary Authority arrives at its conclusion on the basis of evidence, Inquiry Officer's report and the delinquent employee's reply to it. The second stage begins when the Disciplinary Authority decides to impose penalty on the basis of its conclusion. If the Disciplinary Authority decides to drop the proceeding, the second stage is not even reached. The employee's right to receive the report is thus, a part of the reasonable opportunity of defending himself in the first stage of inquiry. If he right is denied to him, he is in effect denied the right to prove his innocence in the disciplinary proceeding."

14. Being guided by the aforesaid principle laid down by the Hon'ble Supreme Court of India, it is clear to us that the Management of ECL has not complied the principle laid down by the Hon'ble Supreme Court of India in the aforesaid case and also failed to comply the Circular dated 12.05.1994 (Exhibit WW-VIII).

15. In the present case the Enquiry Officer and the Disciplinary Authority are different persons. The workman should have been provided with an opportunity to make his representation in respect of findings of the Enquiry Officer before punishment is imposed against him. As the mandatory law has not been complied, I am constrained to hold that Sushil Dome has been dismissed without following the settled principle of law. Therefore, the order of dismissal of Sushil Dome is liable to be set aside.

16. From the materials on record, I find that the date of birth of Sushil Dome is 11.08.1964. Therefore, the workman has not attained his age of superannuation from service. In view of my above discussion, I hold that the purpose of justice would be served if the Order of Dismissal communicated by the letter of The Chief General Manager, Sodepur Area, ECL (Exhibit M-9) is set aside. Management of Chinakuri Mine No. III is directed to reinstate Sushil Dome within two months from the date of Notification of the Award. The Industrial Dispute is decided in favour of the workman. The period of absence from duty due to his dismissal from service from 13.05.1999 till the date of reinstatement shall be treated as Dies Non. The workman shall not be entitled to any benefit of back wages or consequential relief for the period treated as Dies Non. He shall be entitled to his pay and consequential relief only after he joins.

Hence,

ORDERED

that the Industrial Dispute is decided in favour of Sushil Dome, the workman. The Order of Dismissal dated 13.05.1999 communicated by The Chief General Manager, Sodepur Area, ECL be set aside. Sushil Dome be reinstated in his service within two months from the date of Notification of the Award. He shall be entitled to pay and all other consequential benefits prospectively. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 26 जुलाई, 2023

का.आ. 1260.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 32/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.07.2023 को प्राप्त हुआ था।

[सं. एल- 22012/266/2002-आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 26th July, 2023

S.O. 1260.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 25/07/2023

[No. L- 22012/266/2002 - IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 32 OF 2003

PARTIES: Naresh Mahato

Vs.

Management of Central Kajora Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management: Mr. P. K. Das, learned advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 06.07.2023

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/266/2002-IR(CM-II)** dated 08.08.2003 has been pleased to refer the following dispute between the employer, that is the Management of Central Kajora Colliery of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the Management of Central Kajora Colliery in not regularizing Shri Naresh Mahato as Pit Clerk Grade-II. w.e.f. 21.8.1994 is legal and justified? If not, to what relief the workman is entitled?”

1. On receiving Order **No. L-22012/266/2002-IR(CM-II)** dated 08.08.2003 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 32 of 2003** was registered on 27.05.2004 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. In the instant case written statement has been filed by the workman through Mr. Rakesh Kumar, Union representative on 17.09.2004. The main contention of the workman is that after his appointment as a General Mazdoor under Eastern Coalfields Limited (hereinafter referred to as ECL) on 27.07.1990, he was regularized to the post of Timber Mazdoor on 01.09.1990. Naresh Mahato was then deployed as a Clerk Grade – II since February, 1991. He worked as a Pit Clerk Grade – II from February, 1991 till his regularization as Clerk on 21.08.1994 but he was not paid the difference of wages. The contention of the workman is that if a workman worked regularly in a particular post for more than 190 days in case of underground work and 240 days on surface, then he should be regularized to the same post. In the case of Naresh Mahato Management took more than three years for his regularization to the post of Clerk. It is the further case of the workman that he was regularize as a Pit Clerk Grade – III in the year 1994 instead of Pit Clerk Grade – II and the Management of Kajora Area thereafter issued an Order vide letter no. 492 dated 13.05.1997 for promotion of Naresh Mahato from Clerk Grade – III to Clerk Grade – II as Pit Clerk but subsequently the letter was changed and word “promotion” was replaced by the term “regularization”. For such act on the part of the Management Naresh Mahato was deprived of the benefit of promotion and sustained financial loss. The workman claimed for payment of different of wages to him for the period from September, 1991 till September, 1992 and for regularization as Pit Clerk Grade – II w.e.f. 1992.

3. Management of Central Kajora Colliery of ECL filed their written statement on 02.11.2016 wherein they have categorically stated that Naresh Mahato was appointed as General Mazdoor in Category – I on 27.07.1990 and was regularized as Timber Mazdoor on 01.09.1990. The Management for exigencies deployed Naresh Mahato to work

as Pit Clerk sometime in 1991 and was subsequently regularized as Clerk Grade – III w.e.f. 21.08.1994. It is asserted that the post of Pit Clerk as per job nomenclature and Cadre Scheme of the company is a post in Grade – III and he was regularized to that post w.e.f. 21.08.1994. According to the Management of ECL the claim of the Union for regularization of Naresh Mahato in Grade – II as Pit Clerk is not legally tenable and the dispute raised by the Union is misleading and confusing as the post of Pit Clerk is in Grade – III.

4. The point for determination before this Tribunal is whether non-regularization of Naresh Mahato as Clerk in Grade – II w.e.f. 21.08.1994 is legal and justified and whether the workman is entitled to difference of wages of Clerk from February, 1991 to 21.08.1994.

5. Naresh Mahato was examined as workman witness – 1. The Management examined Mr. Proloy Dasgupta, Manager (Personnel), Central Kajora Colliery as Management witness – 1.

6. The workman relied upon a few documents such as a copy of Note Sheet related to the promotion of Naresh Mahato from Clerk Grade – III to Pit Clerk Grade – II dated 25/30.12.1996 (Exhibit W-1), a copy of letter dated 20/23.12.1994 issued by the Agent of Central Kajora Colliery addressed to the Personnel Manager Kajora Area for regularizing him as Clerk Grade – II instead of Clerk Grade – III (Exhibit W-2), a copy of office order No. KA:PM:C-6:6/492 dated 13.05.1997 whereby Naresh Mahato, Clerk Grade – III was promoted to Pit Clerk Grade – II (Exhibit W-3).

7. The petitioner workman has claimed that he worked as a Pit Clerk from 1991 until he was regularized as Clerk in Grade – III w.e.f. 21.08.1994. The concise case of the workman is that since he has served as a Pit Clerk which is a post in Grade – II category, he should have been regularized in Grade – II from 1994 and not in Grade – III. The related claim of the workman is that he is also entitled to the difference of wages for the said period.

8. The counter case of the Management is that the workman was appointed in the service as a General Mazdoor on 27.07.1990 and regularized as a Timber Mazdoor on 01.09.1990. Mr. Proloy Dasgupta (MW-1) in his affidavit-in-chief stated that Naresh Mahato was deployed as a Pit Clerk during 1991 due to exigency of work and the workman was regularized in Clerk Grade – III w.e.f. 21.08.1994. The workman witness in his cross-examination admitted that he was verbally asked to perform duty of Pit Clerk w.e.f. 21.08.1994. The workman failed to produce any formal order by which he was deputed to the post of Pit Clerk Grade – II at any point of time.

9. Management has produced photocopy of Cadre Scheme of Ministerial Staff of General Clerical Grade which was circulated vide Implementation Instruction No. 34 dated 17.07.1984. I find from the undisputed Cadre Scheme that a person can be given a designation of Clerk Grade – III if he has rendered service in the company for three (3) years. Again, as per serial no. 2A an employee can be placed in Clerical Grade – II after he has rendered service for at least three (3) years in the post of Clerk Grade – III. Naresh Mahato was appointed as General Mazdoor under ECL. Therefore, he became eligible for his promotion to Clerk Grade – III only after completion of three years of service under the company. The aggrieved workman could not produce any copy of order from which it could be gathered that he was deployed as Clerk from February, 1991. In September, 1993 the workman completed three years of service under the company and became eligible for his posting as a Clerk in Grade – III. It appears from Exhibit W-2, which is a letter dated 20/23.12.1994 issued by the Agent of Central Kajora Colliery addressed to the Personnel Manager Kajora Area that Naresh Mahato was regularized to the post of Clerk Grade – III w.e.f. 21.08.1994 from his post of Timber Mazdoor. The workman cannot claim regularization to the post of Clerk Grade – II without completing six (6) years in service, which is the minimum eligibility period for promotion. The Office Order dated 13.05.1997 (Exhibit W-3) referring to the Note Sheet dated 30.12.1996 (Exhibit W-1) reveals that the General Manager, Kajora Area has approved the promotion of Naresh Mahato, Clerk Grade – III to Pit Clerk Grade – II with immediate effect. Therefore, Naresh Mahato has received his promotional benefit to Clerical Grade – II in accordance with the provisions of Implementation Instruction No. 34 dated 17.07.1984, after having rendered service for required number of years.

10. I therefore find and hold the Management of Central Kajora Colliery, ECL is justified in not regularizing Naresh Mahato as Clerk Grade – II w.e.f. 21.08.1994 as he had not performed three years' minimum period of service in Clerk Grade – III. The claim of the workman for payment of difference of wages for serving as Pit Clerk from 1991 to 1994 due to exigency is not tenable. The Industrial Dispute raised by the Union is accordingly dismissed on contest against the workman.

Hence,

ORDERED

that the Industrial Dispute is dismissed on contest. Let an award be passed in terms of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 26 जुलाई, 2023

का.आ. 1261.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अम्बे माइनिंग प्राइवेट लिमिटेड, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, आसनसोल के पंचाट (एल.सी.आवेदन संख्या 01/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.07.2023 को प्राप्त हुआ था।

[सं. एल- 22013/01/2023--आई आर (सी. एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 26th July, 2023

S.O. 1261.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (L.C.Application No. 01/2020) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of Ambey Mining Pvt.Ltd, and their workmen, received by the Central Government on 25/07/2023

[No. L-22013/01/2023 - IR(CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

Present: Shri ANANDA KUMAR MUKHERJEE, Presiding Officer, C.G.I.T-cum-L.C., Asansol.

L. C. APPLICATION No. 01 OF 2020

PARTIES: Sunil Kumar Chakraborty

Vs.

Project Manager, M/s. Ambey Mining Pvt. Ltd. and Three Others.

REPRESENTATIVES:

For the Union/Workman: None.

For the Management: None.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 03.05.2023

AWARD

1. Instant application under section 33 C (2) of the Industrial Dispute Act, 1947 was filed by Sunil Kumar Chakraborty, ex-employee of M/s. Ambey Mining Private Limited, praying for payment of his dues in respect of Annual Bonus from 2015 to 2019 amounting to Rs. 69,902/- (Rupees sixty-nine thousand nine hundred and two only).

2. The case is fixed up today for ex-parte hearing. On repeated calls the applicant, Sunil Kumar Chakraborty is found absent. None appeared for the opposite parties M/s. Ambey Mining Private Limited and M/s. Integrated Coal Mining Limited.

3. In his application, the petitioner claimed that he is a Survey Assistant at Sarisatoli Coal Mine Project. He has been rendering service under the opposite party M/s. Ambey Mining Private limited but he has not been paid annual bonus from 2015 to 2019. In his application he has prayed for payment of Annual Bonus from the opposite party after determining the amount due to him. On perusal of record, it appears that by letter No. L-22012/11/2018-IR (CM-II) dated 15.01.2020 of the Government of India, Ministry of Labour had examined the issue raised by Mr. Sunil Kumar Chakraborty for filing an application under Section 2A of Industrial Dispute Act, 1947 and declined the same. In the said letter, Ministry suggested that he may file a fresh claim before the Labour Court under Section 33 C (2) of Industrial Dispute Act, 1947.

4. On close scrutiny of particulars, the opposite parties involved, does not appear to be a Central Government establishment. It is a private company. So, in my considered view, the application under Section 33 C (2) of Industrial Dispute Act is not maintainable. Furthermore, the petitioner has failed to appear on the date fixed for ex-parte hearing. The L.C. Application is therefore dismissed as not maintainable.

Hence,

ORDERED

that the L. C. Application under section 33 C (2) of the Industrial Dispute Act, 1947 is dismissed. An Award be drawn up in light of the above observation. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi under section 33 C (4) of Industrial Dispute Act, 1947 for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 28 जुलाई, 2023

का.आ. 1262.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, गैस टरबाइन अनुसंधान प्रतिष्ठान, सी.वी. रमन नगर, बेंगलुरु, के प्रबंधन के संबद्ध नियोजकों और श्री एस. कृष्णप्पा @ कृष्णा रेड्डी, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- बेंगलूर के पंचाट (संदर्भ संख्या 07/2013) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.07.2023 को प्राप्त हुआ था।

[सं. एल- 42025/07/2023-151- आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 28th July, 2023

S.O. 1262.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 07/2013) of the Central Government Industrial Tribunal cum Labour Court – Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation The Director, Gas Turbine Research Establishment, C.V. Raman Nagar, Bangalore, and Shri S. Krishnappa @ Krishna Reddy, Worker, which was received along with soft copy of the award by the Central Government on 25.07.2023

[No. L- 42025/07/2023-151-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

“Shram Sadan”,
G G Palya, Tumkur Road,
Yeswanthpur, Bangalore – 560 022.

DATED : 06TH JULY, 2020

Present : Justice Smt. RATNAKALA, Presiding Officer

ID 07/2013

I Party

Sh. S. Krishnappa @ Krishna Reddy,
S/o Late Dodda Sunkappa,
111, Nagamma Nilaya,
Annasandra palya,
Vibuthipura Main road,
HAL Post,
Bangalore – 560017.

II Party

The Director,
Gas Turbine Research Establishment,
C.V. Raman Nagar,
Bangalore – 560093.

Appearance

Advocate for I Party : Mr. B.D. Kuttappa
 Advocate for II Party : Mr. Prakash Rao. K

AWARD

1. It is a Petition filed by an individual workman against his former Employer / 2nd Party under Sec 2A (2) and (3) of the Industrial Dispute Act, 1947.

The claim of the 1st Party workman is, he joined the service of the 2nd Party on 29.04.1985 as casual labourer / helper; his name was sponsored by District Employment Exchange Office at Bangalore; he was selected after finding him suitable in the interview by the Selection Committee; he worked at maintenance section of the 2nd Party for ten years continuously until he was illegally terminated in the month of October 1990; he worked for more than 240 days in each of the calendar years and terminated without any reason and without following the mandatory provisions of the Industrial Dispute Act. Similarly placed workmen selected along with him were discontinued and they raised dispute before this Tribunal and this Tribunal passed Award directing the 2nd Party to reinstate them and they were taken back and they are serving regularly. He is unemployed and is without any source of income.

2. The claim is contested by the 2nd Party on the ground that, the 2nd Party was engaging casual labourers on daily wages to carry out odd and miscellaneous jobs; the engagement was purely casual in nature to cater to the temporary nature of work. Since, the services were no longer required, their engagement were stopped subsequently. The 1st Party workman worked intermittently for 446 days from May 1985 to January 1991. As per the guidelines of the Ministry of Defence, Government of India dated 31.01.1991, casual labourers who rendered at least 240 days of casual service during each of the two years of service will be eligible for appointment to the post on regular establishment subject to other conditions. The 1st Party did not work for minimum stipulated days in any of the block of two years and was not eligible for regular employment.

3. The 1st Party workman once filed the claim petition, thereafter, did not pursue his claim. The 2nd Party examined it's witness / Administrative officer reiterating the counter claim averments and produced supporting documents Ex M-1 to Ex M-4. Ex M-2 is the proceedings of the interview committee dated 05.12.1989 and it is seen from the said document that the 1st Party workman was not successful in getting through.

4. More than anything, the claim of the workman is hit by the limitation contemplated by Sec 2A (3) of 'the Act' which reads thus,

"2A (1)

(2)

(3) *The application referred to in sub Section (2) shall be*

made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub Section (1)."

The alleged Termination in this case is of October 1990 and the dispute is raised in the year 2011, long after the period stipulated in the above provision. Hence, the Dispute is barred by time and the petition will not survive.

AWARD

The petition filed by Sh. S. Krishnappa alias Krishna Reddy under Sec 2A (2) and (3) of the Industrial Dispute Act is rejected as not maintainable.

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 28 जुलाई, 2023

का.आ. 1263.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, एचएमटी लिमिटेड, सी एस डी, एचएमटी पीओ, जलाहल्ली, बेंगलोर, के प्रबंधन के संबद्ध नियोजकों और अध्यक्ष, एचएमटी वॉच फैक्ट्री कर्मचारी संघ, एचएमटी लिमिटेड वॉच फैक्ट्री - IV, देवरायपटना, तुमकुर, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- बेंगलोर के पंचाट (संदर्भ

सं. 05/2015) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.07.2023 को प्राप्त हुआ था।

[सं. एल-42011/118/2014-आईआर (डीयू)]

डी. के. हिमांशु, अवसर सचिव

New Delhi, the 28th July, 2023

S.O. 1263.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 05/2015) of the Central Government Industrial Tribunal cum Labour Court – Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation The General Manager, HMT Limited, C S D, HMT PO, Jalahalli, Bangalore, and The President, HMT Watch Factory Employees Union, HMT Limited Watch Factory – IV, Devarayapatna, Tumkur, which was received along with soft copy of the award by the Central Government on 25.07.2023.

[No. L- 42011/118/2014-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

“Shram Sadan”,
G G Palya, Tumkur Road,
Yeswanthpur, Bangalore – 560 022.

DATED : 01st NOVEMBER 2016

Present : Shri V S RAVI, Presiding Officer

C R No. 05/2015

I Party

The President,
HMT Watch Factory Employees Union,
HMT Limited Watch Factory – IV,
Devarayapatna,
Tumkur Dist. - 572103

II Party

The General Manager,
HMT Limited, C S D,
HMT PO, Jalahalli,
Bangalore - 560013

AWARD

1. The Central Government vide Order No.L-42011/118/2014-IR(DU) dated 02.01.2015 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the action of the management of HMT Watch Factory, Tumkur, postponing the promotion of workman detailed in the industrial dispute dated 05.12.2012 raised by the HMT Watch Factory Employees Union, Tumkur is legal and justified? If not, to what relief the workmen are entitled for?”

2. After the receipt of the reference, the matter has been registered on the file of this Tribunal and notices have been sent for both parties. None appeared for the Ist party and Ist party also called absent. Infact, notice of hearings have been sent to the I party by RPAD through the Department of Posts, India. Still, no representation has been made on behalf of I party and also, I party is called, absent.

3. On perusal of records already notices have been sent and, the said notices have been sent through RPAD by this Tribunal. Hence, it is found that inspite of giving sufficient and adequate chances by issuing notices of hearing to I party, the I party has not made any appearance. In such circumstances, the matter is posted for passing Award, after the perusal of entire records brought on record.

4. Further, from the above mentioned circumstances, it would be very much clear, in the present matter, that the I party has no interest to contest the present matter, inspite of the service of notices of hearing to the I party. It is for the I party to make out a case that I party is entitled to the above mentioned benefits and that the management has done a mistake by denying the said benefits. Under the above mentioned special circumstances and peculiar facts, this Tribunal is constrained to pass appropriate award, after the perusal of materials available on record.

5. Since no appearance has been made and also claim statement has not been filed and further no case has been made out by I party and the present reference has only to be rejected for non-prosecution. Therefore, keeping in view the conduct of I party in, not appearing before this Tribunal, even though notices have been sent to the I party by way of RPAD and the conduct of I Party in not filing claim statement, in support of the said reference, it is crystal clear that the I party is no more interested in prosecuting the claim against II party. In the result and also in above mentioned facts and situations, it is to be held that the present reference has to be rejected, for non prosecution and no useful purpose will be served in keeping the proceedings any more pending. Hence the following award.

AWARD

Reference is dismissed for non-prosecution.

(Dictated, transcribed, corrected and signed by me on 01st November, 2016)

V S RAVI, Presiding Officer

नई दिल्ली, 28 जुलाई, 2023

का.आ. 1264.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य महाप्रबंधक, विज्ञान इंडस्ट्रीज लिमिटेड, तारिकेरे, चिकमगलूर; महाप्रबंधक (आईआर), भारत अर्थ मूवर्स लिमिटेड, बीईएमएल सौधा, बेंगलोर, के प्रबंधन के संबद्ध नियोजकों और सचिव, विज्ञान उद्योग मजदूर संघ, तारिकेरे, चिकमगलूर, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- बेंगलोर के पंचाट (संदर्भ संख्या 23/2016) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.07.2023 को प्राप्त हुआ था।

[सं. एल-42011/58/2016 -आई आर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 28th July, 2023

S.O. 1264.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/2016) of the Central Government Industrial Tribunal cum Labour Court – Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation The Chief General Manager, Vignyan Industries Limited, Tarikere, Chickmagalur ;The General Manager (IR), Bharat Earth Movers Limited, BEML Soudha, Bangalore , and The Secretary, Vignyan Industries Mazdoor Sangh, Tarikere, Chickmagalur, which was received along with soft copy of the award by the Central Government on 25.07.2023.

[No. L- 42011/58/2016-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BENGALURU CAMP At HYDERABAD

“Shram Sadan”,
G G Palya, Tumkur Road,
Yeswanthpur, Bangalore – 560 022.

DATED : 13th MARCH 2023

Present : Shri IRFAN QAMAR, Presiding Officer

C R No. 23/2016

I Party

The Secretary,
Vignyan Industries Mazdoor Sangh,
Tarikere,
Chickmagalur – 577 228.

II Party

1. The Chief General Manager, Vignyan Industries Limited, Tarikere, Chickmagalur – 577 228.
2. The General Manager (IR), Bharat Earth Movers Limited, BEML Soudha, Bangalore – 560 027.

Appearances

I Party : **Muralidhara**
Advocate
II Party : **Sh. Ramesh Upadhyaya**
Advocate

1. The Government of India, Ministry of Labour vide order No. L-42011/58/2016-IR(DU) dated 03.06.2016 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as “The Act”) (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDULE

“Whether the seven employees of Vignyan Industries Limited whose names is 1) Sri T G Sureshy, 2) Sri T S Puttaswamy, 3) Sri M Shivaprasad, 4) Sri B R Rudraswamy, 5) Sri D P Sadashiva, 6) Sri S N Nagabhushana & 7) Sri R V Mohan are eligible for minimum D A? If yes, at what rate?”

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Joint Memorandum of Settlement wherein they have agreed that they have signed voluntarily and approached the tribunal to accept the settlement. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the record, parties have filed Joint Memorandum of Settlement dated 29.09.2021 in the present matter voluntarily and prayed to pass consent Award in terms of the settlement. The Settlement has been duly signed by both the parties. Therefore, in view of the above settlement is allowed and the consent award in terms of the settlement is passed accordingly. Transmit.

(Dictated to Secretary to Court at Camp Court, transcribed by him, corrected and signed by me on 13th March 2023)

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 28 जुलाई, 2023

का.आ. 1265.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक (पी), भारत इलेक्ट्रॉनिक्स लिमिटेड, जलाहल्ली पोस्ट, बेंगलुरु, बेंगलोर, के प्रबंधतंत्र के संबद्ध नियोजकों और महासचिव, भारत इलेक्ट्रॉनिक्स वर्कर्स यूनियन, यशवंतपुर, बेंगलुरु, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-बेंगलोर के पंचाट (संदर्भ सं. 08/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 25.07.2023 को प्राप्त हुआ था।

[सं. एल- 14011/3/2019-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 28th July, 2023

S.O. 1265.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 08/2019) of the Central Government Industrial Tribunal cum Labour Court – Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation The General Manager (P), Bharat Electronics Limited, Jalahalli Post, Bangalore, and The General Secretary, Bharat Electronics Workers Union, Yeswanthpur, Bangalore, which was received along with soft copy of the award by the Central Government on 25.07.2023.

[No. L-14011/3/2019-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

“Shram Sadan”,
G GPalya, Tumkur Road,
Yeswanthpur, Bangalore – 560 022.

DATED: 27th JANUARY 2020

Present : Justice Smt. RATNAKALA, Presiding Officer

C R No. 08/2019

I Party

The General Secretary,
Bharat Electronics Workers Union,
CITU Office, 1st Main Road,
Yeswanthpur.
BANGALORE – 560 022.

II Party

The General Manager (P),
Bharat Electronics Limited,
Jalahalli Post,
Bangalore – 560 013.

Appearances

I Party : None
II Party : **G B Sharath Gowda**
Advocate

1. The Government of India, Ministry of Labourvide order No. L-14011/3/2019-IR(DU) dated 07.03.2019 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as “The Act”) (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDULE

“Whether the action of the management of Bharat Electronics Limited in its proposal to change the CMA scheme with regards to the extent of reimbursement for the super-specialty procedures for the dependent parents over 80 years, of employees is justified? If yes, what relief the Bharat Electronics Workers Union is entitled to?”

2. On receipt of the reference order, notice was issued to both parties. Notice issued to the 1st Party returned as “Not claimed”. 2nd Party though appeared through their Counsel have not filed their statement

3. In the circumstance, it is inevitable to hold that the 2nd Party failed to justify their action. At the same time the 1st Party workmen since did not pursue the dispute espoused by them, concerned workmen are not entitled for any relief.

AWARD

Reference is Rejected.

(Dictated to U D C, transcribed by him, corrected and signed by me on 27th JANUARY 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 28 जुलाई, 2023

का.आ. 1266.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एनजीपी सुरक्षा एजेंसी, डोमलगुडा, हैदराबाद; अनुसंधान केंद्र इमारत, अनुसंधान एवं विकास संगठन, रक्षा मंत्रालय, विज्ञानकांचा पी.ओ., हैदराबाद, के प्रबंधन के संबद्ध नियोजकों और मैसर्स एनजीपी सुरक्षा एजेंसी, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-हैदराबाद के पंचाट (संदर्भ संख्या 78/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 27.06.2023 को प्राप्त हुआ था।

[सं. एल-42025-07-2023-152-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 28th July, 2023

S.O. 1266.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. L.C. No. 78/2019) of the Central Government Industrial Tribunal cum Labour Court – Hyderabad as shown in the Annexure, in the Industrial dispute between the employers in relation to M/s. NGP Security Agency, Domalguda, Hyderabad ; Research Centre Imarat, R & D Organization, Ministry of Defence, Vigyanakacha P.O., Hyderabad, and M/s NGP Security Agency, which was received along with soft copy of the award by the Central Government on 27.06.2023.

[No. L-42025-07-2023-152-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - Sri IRFAN QAMAR, Presiding Officer

Dated the 14th day of July, 2023

INDUSTRIAL DISPUTE No. 78/2019

Between:

Contract Workers of M/s NGP Security Agency

.....Petitioner

AND

1. M/s. NGP Security Agency,
Shop No.B 1-2-288/3A, Street No.7,
Domalguda, Hyderabad.
2. Reseach Centre Imarat,
Dr. APJ Abdul Kalam Missile Complex,
R & D Organization,
Ministry of Defence,
Vigyanakacha P.O., Hyderabad -500 069.

... Respondents

Appearances:

For the Petitioner : None
For the Respondent : None

AWARD

The Government of India, Ministry of Labour by its Order No F. No. 24(14)/2019-IR dated 14.8.2019 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. NGP Security Agency and their workmen. The reference is,

SCHEDULE

“Whether the action of Management of M/s. NGP Security Agency a contractor of Research Centre Imarat, Dr. A.P.J. Kalam Missile Complex, Ministry of Defence, Hyderabad in terminating the services of the 50 workmen working as security guards, without notice is legal and just? If not, to what relief are the contract workers entitled to?”

The reference is numbered in this Tribunal as I.D. No.78/2019 and notices were issued to the parties concerned. None appeared from both sides.

2. Petitioner absent on the date fixed for filing of claim statement. Respondent present. Despite service of notice and sufficient opportunity provided to the Petitioner he did not file any claim statement till date. It seems that Petitioner do not want to pursue his case. Since the Petitioner has not substantiated his claim as per reference, a ‘No Claim’ award is passed. Transmit.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 14th day of July, 2023.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the

Witnesses examined for the

Petitioner

Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 28 जुलाई, 2023

का.आ. 1267.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, हिंदुस्तान एयरोनॉटिक्स लिमिटेड, लखनऊ; मैसर्स शाह बंधु, द्वारा श्री योगेंद्र प्रसाद शाह, स्वच्छता ठेकेदार, हरजेंद्र नगर, कानपुर; मैसर्स ग्रुप-4 फैसिलिटी सर्विस, द्वारा श्री नवल कपूर, निदेशक कार्मिक, 1/97, विद्युत खंड, गोमती नगर, लखनऊ, के प्रबंधन के संबंध में नियोजकों और श्री भगौती प्रसाद, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 87/2011) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26/07/2023 को प्राप्त हुआ था।

[सं. एल- 42025-07-2023-153 आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 28th July, 2023

S.O. 1267.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 87/2011) of the Central Government Industrial Tribunal cum Labour Court—Lucknow, as shown in the Annexure, in the Industrial dispute between the employers in relation to The General Manager, Hindustan Aeronautics Limited, Lucknow; M/s Shah Bandhu, through Shri Yogendra Prasad Shah, Sanitation Contractor, Harjendra Nagar, Kanpur; M/s Group -4 Facilities Service, through Shri Nawal Kapoor, Director Personnel, 1/97, Vidyut Khand, Gomti Nagar, Lucknow, and Shri Bhagauti Prasad, Worker, which was received along with soft copy of the award by the Central Government on 26/07/2023.

[No. L- 42025-07-2023-153- IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT LUCKNOW

Present: Justice ANIL KUMAR, Presiding Officer

I.D. No. 87/2011

BETWEEN

Bhagauti Prasad, son of late Prasadi,
Resident of Village Kanchanpur Matiari,
Post Chinhat, District Lucknow.

AND

1. Hindustan Aeronautics Limited, Lucknow Division, Lucknow through its General Manager.

2. General Manager, Hindustan Aeronautics Limited, Lucknow Division, Lucknow.
3. M/s Shah Bandhu, through Sri Yogendra Prasad Shah, Sanitation Contractor, 504, Viman Nagar, G.T. Road. Harjendra Nagar, Kanpur.
4. M/s Group -4 Facilities Service, through Sri Nawal Kapoor, Director Personnel, 1/97, Vidyut Khand, Gomti Nagar, Lucknow.

AWARD

On 28.02.2010 the claimant/workman has filed the ID case No. 87/2011 as per the provisions of Section 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

Facts of the case:

Hindustan Aeronautics Limited, Lucknow Division (hereinafter referred to as Establishment), is a factory registered under the provisions of the Factories Act, which is situated at Faizabad Road, Lucknow and the sanitation work of the premises of the Establishment as well as Plant and Machinery installed at the factory premises is a perennial as well regular nature of job.

Establishment is an Engineering Industry and the Government has issued a notification dated 24.04.1990 under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 after the recommendation of Contract Labour Advisory Board, whereby 18 works of the Engineering Industry, which are regular or perennial in nature has been prohibited.

However, it was the prevalent practice in establishment that they employed the contract labour for sanitation work of the establishment/premises despite the fact that the sanitation work was regular in nature; and the claimant/workman was working in the establishment right from the very beginning i.e. from the date, the factory was established and continuously worked till the date of termination i.e. 21.12.2001.

As per the case workman order of termination dated 21.12.2001 by which his services in an illegal and unjustified manner was terminated, inasmuch as in establishment of employers there were more than 100 workmen employed as such the compliance of Section 25-N of the Industrial Disputes Act was necessary but before terminating the services of the workmen, employers have not complied with the provisions of Section 25-N of the Industrial Disputes Act.

Further, the services of the workman have been terminated by the principal employer not by the contractor and the work which were being performed by the concerned workman still exist with employers and the same is being carried out by employing new workmen on contract basis.

In the claim petition it has been pleaded that earlier the workmen's Union in Establishment i.e. Hindustan Aeronautics Karamchari Sabha, raised the dispute of the workman along with some other workmen before the State Government which, was referred for adjudication before the Industrial Tribunal (II), U.P., Lucknow, registered before Industrial Tribunal (II), U.P., Lucknow as Adj. Case No.: 126 of 2002.

However, on account of the fact that the workman along with some other workmen were not satisfied with the pairavi of the Union as such an authority letter was filed along with an application by 20 workmen amongst the concerned workman to represent the said case but the Union, filed objection that as applicants who have filed the application are not party in the said case such they are not entitled to represent the case. By an order dated 10.03.2010, the Hon'ble Presiding Officer held that the workmen are not satisfied with the proceedings through Union, they can raise separate dispute "under the provisions of Act.

Thereafter, an application was filed by 36 workmen including the claimant/workman on 10.07.2010 before, the Hon'ble Presiding Officer, Industrial Tribunal (2), U.P., Lucknow for deletion of the names of the workmen from the reference order so that they may be in position to raise fresh industrial dispute before the competent Forum and the Hon'ble Presiding Officer, Industrial Tribunal (2), U.P., Lucknow after hearing the parties concerned was pleased to allow the said application except three whose names were not mentioned in reference order.

In pursuance to order dated 20.07.2010 the workman concerned along with 32 other workman filed an application before the Regional Labour Commissioner (Central), Lucknow which was registered as Case No. LKO-8(2-32)/2010: Laxmi Narain and 32 others Vs. General Manager, Hindustan Aeronautics Limited and others.

Thereafter, Regional Labour Commissioner (Central), Lucknow, called upon the parties for conciliation proceedings and in pursuance thereof Hindustan Aeronautics Limited appeared before him and filed their objections and due to the negative attitude of the employers, no settlement could be arrived between the parties.

Since the mandatory period i.e. 45 days as specified under Section 2- A (2) of the Industrial Disputes Act, 1947 (as amended by Industrial Disputes (Amendment) Act, 2010 (No. 24 of 2010) had been expired as such the concerned workman seek the permission from the Regional Labour Commissioner (Central), Lucknow to withdraw the case and to approach the Hon'ble Court on 27.01.2011, which was duly accepted by the Regional Labour Commissioner (Central), Lucknow.

In view of above said factual background the present case has been filed u/s 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) with following prayer:

"WHEREFORE, it is most respectfully prayed that the Hon'ble Court may be pleased to declare that the action of the management in terminating the services of workman with effect from 21.12.2001 is neither legal nor justified and accordingly the workman concerned is entitled to get reinstatement in service together with entire consequential benefits including back wages and other service benefits, in the interest of justice."

On behalf the respondent written statement has been filed on 03.04.2012 in which following preliminary objection was taken:

"1. That the aforesaid ID Case No.87/2011 is not maintainable as per the provisions of ID Act 1947 (as amended by ID (Amendment) Act 2010) because the same is barred by limitation U/S 2A(3) of the ID Act (Amendment 2010) which is quoted as below:

2A(3) "the application referred to in sub section 2 shall be made to Labour Court or Tribunal before the expiry of 3 years from the date of discharge, dismissal, retrenchment or otherwise termination service as specified in sub section 1".

In addition to the above said facts, the respondent in its written statement also given the parawise reply to the case as set up by the claimant in his statement of claim.

Sri Adarsh Jadghari has submitted that before deciding the matter in question on merit, the question "whether the claim petition filed by the claimant on 28.02.2011 as per the provisions of section 2A (2) of the Act, aggrieved by the order of termination/retrenchment dated 21.12.2001 is barred by the period of limitation as provided u/s 2A(3) of the Act or not?"

Sri Adarsh Jadghari in support of his argument submits, admittedly as per the case of the claimant his services were terminated on 21.12.2001, aggrieved by the same he filed present industrial dispute u/s 2A (2) of the Act; however, u/s 2A (3) of the Act the period of limitation is provided for three years, from the date of retrenchment/termination, so, the present claim petition is barred by the period of limitation as provided u/s 2A (3) of the Act, liable to be dismissed.

Sri D.K. Gupta, learned counsel for claimant, rebutting the said contention has placed reliance as pleaded in the statement of claim and submits that in view of the facts as stated hereinabove especially on the preliminary points are quoted herein below:

"27. That since the mandatory period i.e. 45 days as specified under Section 2- A (2) of the Industrial Disputes Act, 1947 (as amended by Industrial Disputes (Amendment) Act, 2010 (No. 24 of 2010) had been expired as such the concerned workman seek the permission from the Regional Labour Commissioner (Central), Lucknow to withdraw the case and to approach the Hon'ble Court on 27.01.2011, which was duly accepted by the Regional Labour Commissioner (Central), Lucknow.

28. That in pursuance thereof, the workman concerned approaching the Hon'ble Tribunal for the adjudication of the industrial disputes as prevalent between the workman and the employers."

The present claim petition filed u/s 2 (2) of the Act is maintainable and the arguments as raised by the learned counsel for respondent that same is barred by the period limitation is devoid of merit, be rejected.

I have heard the learned counsel for parties and gone through the record.

Before deciding the same it will be appropriate to go through aims and objects of Industrial Dispute Act, 1947 in brief which are that Industrial Disputes Bill was introduced by the Government of India in the Legislative Assembly on the 28th October 1946. After the Select Committee's report on 3rd February 1947, with some amendments, it was passed in March 1947 and became the law from 1st April 1947 repealing the Trade Disputes Act 1929.

While retaining most of the provisions of the earlier law, this Act introduced two new institutions for the prevention and settlement of industrial disputes; works committees consisting of representatives of employers and workers; and machinery for industrial adjudication.

A reference to an industrial tribunal under this Act lies where both parties to any industrial dispute apply for such reference, and also where the appropriate Government considers it expedient so to do. An award of a tribunal has normally to be enforced by the Government and is binding on both parties to the dispute for such periods as may

be specified, upto a maximum of one year. This Act seeks to give a new orientation to the entire conciliation machinery.

Another important new feature of the Act is the prohibition of strikes and lockouts during the pendency of conciliation and adjudication proceedings of settlements reached in the course of conciliation proceedings and of awards of industrial tribunals declared binding by the appropriate government.

Rules, orders or notifications requiring the larger industrial establishments to set up works committees were issued by the Government of India and most of the State Governments.

Objectives: General

The objectives of industrial relations and industrial disputes legislation, may be outlined as under:-

- (i) **Industrial Peace:** For prosperity of industry, it is necessary that there be a continuous and growing production which is only possible if (a) there are no interruptions and stoppages in production i.e. absence of disputes, and (b) if the various agencies of production are satisfied and are in a harmonious bent to work. In other words, industrial peace is very necessary for the vitality of industry.
- (ii) **Economic Justice:** All interruptions in production arising out of industrial dispute are really caused by the dissatisfaction of labour with their existing economic condition. The history of labour struggle is nothing but a continuous demand for fair return to labour expressed in varied forms e.g. (a) increase in wages, (b) resistance to decrease in wages, (c) grant of allowances and benefits etc. (*Hariprasad Vs. A.D. Divelkar, AIR 1957 SC 121*)

Social and economic justice which is the bedrock of our Constitution and economic organization also requires that any industrial relations or disputes legislation, to be effective remedial statute, must embrace not only law for regulation of labour relations with capital, process for channelizing collective bargaining methods for negotiation, mediation, conciliation and settlements of industrial conflict, but also a system for giving fair play and justice to labour and removal of economic injustice.

The preamble of the Act states that its main object is to make provision for investigation and settlement of industrial disputes. Viewed in the above background, the Industrial Disputes Act 1947 is a progressive piece of social legislation and is designed to settle the disputes on a new pattern known under the Act as adjudication machinery. The object of all labour legislation is to ensure fair wages and to prevent disputes so that production might not be adversely affected. (*Banaras Ice Factory Ltd. Vs. Its Workmen, AIR 1957 SC 167*)

The purpose of the Act is to provide machinery for a just and equitable settlement by adjudication, (*G. Claridge and Company Ltd. Vs. Industrial Tribunal, Bombay, AIR 1951 Bombay 100*) and amelioration of the conditions of workmen in industry.

Individual and collective industrial disputes: Individual as well as collective disputes may ripen into industrial disputes. The true nature of an individual dispute is that it is a collective dispute. Though a dispute may at the inception be initiated by an individual, yet if it is taken up by the fellow-workers or a union, or a sufficient number of workers, it may assume the collective character and would become an industrial dispute. (*Standard Vacuum Oil Co. Errakulam Vs. I. Tribunal, Errakulam 1952-II LLJ 612*). A dispute which continues to retain its individual character cannot be regarded as an industrial dispute. This being the basic law, it is within the competence of the legislature to widen or narrow the coverage of an industrial dispute. The Industrial Disputes Act has also been amended to cover some individual disputes. It is not necessary that a majority should take an industrial dispute. It is sufficient if a substantial group of workmen take it up. When thus taken, it becomes an industrial or collective dispute.

Individual dispute an industrial dispute: The important amongst the above are however the amendments of 1965. By the Act of 1965, a new Section 2A has been added in Act whereby specified categories of individual disputes are also deemed to be industrial disputes. The section reads as under:

“2A. Dismissal, etc of an individual workman to be deemed to be industrial dispute-

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.”

This amendment revives, impediment in the way of workman with the necessity that to make an industrial dispute it must be taken up or espoused by substantial section of the workmen or any union of those workmen and gives an individual workman a remedy for security of his service and indirectly freedom to join or not to join any union. Thus, individual disputes could be referred to Tribunal as per Section 2A after 1.12.1965. (*National Productivity Council, 1969-II LLJ 186*).

Thereafter, by Industrial Disputes (Amendment) Act 2010 (Act No. 24 of 2010), Section 2A(a), was renumbered as Sub-section (1) and by the same Act i.e. Act No.24 of 2010 Sub-section (2) and Sub-section (3) have been inserted after Section 2A (1) of Industrial Dispute Act 1947 which came into effect w.e.f. 15.09.2010, which reads as under:

"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute -

"(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section(1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-Section(2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section(1)."

Now the core question to be considered is that in view of the facts which are stated hereinabove, that admittedly the services of applicant was terminated on 21.12.2001, thereafter he has filed the present case before this Tribunal u/s 2A of the Act on 28.02.2011 on the grounds as taken by him in his claim petition, is maintainable or barred by the period of limitation as provided u/s 2A(3) of the Act.

Answer to the said question find place in the judgment passed by Hon'ble the Karnataka High Court in **ITC Infotech India Ltd. vs. Venkataramana Uppada ILR 2016 Karnataka 3041**, relevant portion quoted as under:

"19. Keeping the above principles in mind, a reading of Section 2A(3) would lead to an irresistible conclusion that time stipulated for invoking the jurisdiction of the Labour Court or the Tribunal as the case may be, has to be necessarily "before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1)." Time limit for making an application to the Labour Court stipulated in sub-Section (3) of Section 2A does not appear to have a bearing to the provisions of sub-Section (2) of Section 2A. In any event right conferred under Section 2A would lapse immediately preceding the date of expiry of three years from the date of dismissal, discharge etc.,. In other words, the limitation of three years prescribed under sub-Section (3) of Section 2A being mandatory, same cannot be condoned by taking recourse to Section 5 of the Limitation Act, 1963 which has no application to the provisions of Industrial Disputes Act, 1947.

20. It is well settled principle that if an act is required to be performed within a specified time, the same would primarily be mandatory. It has been held in the case of NAZIRUDDIN VS SITARAM AGARWAL reported in AIR 2003 SCW 908 to the following effect:

"The Courts jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case, the Court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of provision is plain and unambiguous. It cannot add or subtract the words to a statute or read something into it which is not there. It cannot re-write or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of legislature must be gathered from the language used."

21. Thus, in the background of the dicta of the Apex Court in NAZIRUDDIN's case referred to supra, when Section 2A is perused, it would indicate that if the legislature really intended that the period of limitation provided in sub-Section (3) of Section 2A was to be construed as directory, then it would not have prescribed the limitation of three years and it would have used the words "at any time" instead of using the words "before the expiry of three years". Though the words at any time' is found in Section 10(1), same is conspicuously absent in sub-Section(3) of Section 2A which would clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-Section (3)

of Section 2A and as such legislature did not employ the words at any time' in the said provision as found in Section 10(1) and in its place, it has specifically incorporated the words before the expiry of three years'. Hence, to interpret the period of limitation found in sub-Section (3) of Section 2A as directory and not mandatory would amount to adding something which is not provided in the provision by the legislature or it would amount to doing violence to the provision, if such interpretation is sought to be made."

And Hon'ble Rajasthan High court in the case of **Pankaj Swami vs. Rajasthan State Road Transport Corporation & ors. MANU/RH/1788/2019** after taking into consideration the provisions of section 2A(2) & 2A(3) of the Act held as under:

"The provisions are explicit, wherein the workman can approach the Labour Court for adjudication of the dispute in case of discharge, dismissal, retrenchment etc., however, sub-section (3) provides that the application should be made to the Labour Court before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified.

8. *The submission made by learned Counsel for the petitioner that as the cause of action arose to the petitioner prior to introduction of the provision of limitation by sub-section (3) the same would have no application is concerned, the submission made is fallacious, inasmuch as, the provision under which the application has been filed by the petitioner i.e. section 2-A(2) of the Act, itself was introduced by the amendment Act of 2010 alongwith the limitation therein and therefore, the provision of limitation which was introduced in the year 2010 alongwith the main provision providing for the limitation would apply with all force and the submission that the same would have no application to the cause of action, which arose prior to 2007, has no basis.*

The submissions as made, if accepted, would result in circumstances where if the cause of action has arisen post 2010, the same would be barred, whereas the causes, which arose prior to 2010 like in the year 2007 in the present case and the application is filed after 7 years, the same would never become barred by limitation, such a result is legally untenable.

9. *The submission made by learned Counsel for the petitioner that as the petitioner had approached the Conciliation Officer and had raised the dispute before him, where there was no limitation and the petitioner approached the Labour Court only as per the directions of the Conciliation Officer the claim could not be rejected by barred by limitation also does not advance the cause of the petitioner, inasmuch as, the petitioner could have taken advantage of the said position, if the Conciliation Officer had sent a failure report to the appropriate Government who in turn had referred the dispute to the Labour Court. Merely because the Conciliation Officer suggested approaching the Labour Court, which suggestion was accepted by the petitioner, cannot be termed as a reference under section 10 of the Act to the Labour Court.*

10. *In view of the above discussion in so far as the rejection of the claim of the petitioner by the Labour Court being barred by limitation is concerned, the same cannot be faulted."*

And in the case of **Parthasarathy vs. Souther Pins and Products Pvt. Ltd. and Ors. MANU/TN/6691/2020** Hon'ble the High Court of Madras has held as under:

"Inasmuch as the notice of termination of the Petitioner in the present case has been made on 06.10.2014 under Section 2-A(2) of the Act after the said amendment has come into force, the limitation of three years prescribed under Section 2-A(3) of the Act would necessarily apply. As such, there is no infirmity in the decision-making process of the Labour Court in refusing to entertain the application made by the Petitioner has time barred. This view is supported by the decisions of this Court in the following cases:-

(i) *ITC Infotech India Ltd. v. Venkataramana Uppada (Order dated 03.03.2016 in W.P. No. 27510 of 2015 passed by the High Court of Karnataka)*

(ii) *Management of Ashok Leyland v. Presiding Officer, Labour Court (Order dated 13.04.2016 in W.P. Nos. 9640 and 9641 of 2016 passed by this Court)*

(iii) *Ravi Kumar v. Management, Tamil Nadu State Road Transport Corporation (Order dated 11.04.2017 in W.P. (MD) No. 4269 of 2017 passed by the Madurai Bench of this Court)*

(iv) *K. Settu v. Assistant Engineer, Tamil Nadu Electricity Board (Order dated 20.09.2019 in W.P. No. 8413 of 2019 passed by this Court)*

5. A feeble attempt is made on behalf of the Petitioner to suggest that the period of conciliation must be excluded while computing the limitation. It is, no doubt, true that Section 2-A(2) of the Act contemplates such application to be made to the Labour Court after the expiry of 45 days from the date of application to the Conciliation Officer is made. However, it does not require that the conciliation proceedings should have been completed before making that application under Section 2-A(2) of the Act. The words in Section 2-A(3) of the Act are clear enough that the limitation has to be reckoned on the expiry of three years from the date of termination. The Petitioner in the instant case had made the application for conciliation on 12.04.2017 which had also concluded on 27.06.2017, but the Petitioner had not approached the Labour Court after 45 days either from 12.04.2017 or even from 27.06.2017. As such, the contentions made on behalf of the Petitioner cannot be countenanced.”

(see also *Kandasamy Spinning Mills Private Ltd. vs S. Palanisamy and Ors.* MANU/RN/6831/2019)

Thus, in view of above said fact, combined reading of section 2A (2) and 2A (3) of the Act, the legal position which emerge out is that if a workman is aggrieved by order of discharge, dismissal, retrenchment or otherwise termination, he may approach the Tribunal within a period three years from dated of passing of order.

Taking into consideration, above said facts and position of law as well that “if law provides a particular thing that all other modes or methods of doing that thing must be deemed to have been prohibited”, the said proposition of law is first held in the case of *Tylor Vs. Tylor (1875) LR 1 ChD 426* and adopted later by the **Judicial Committee in *Nazir Ahmed Vs. King Emperor AIR 1936 PC 253*** and thereafter by the Hon’ble Supreme Court in a series of judgments including those in *Rao Shiv Bahadur Singh & another Vs. State of Vindhya Pradesh AIR 1954 SC 322*, *State of Uttar Pradesh Vs. Singhara Singh AIR 1964 SC 358*, *Chandra Kishore Jha Vs. Mahavir Prasad 1999 (8) SCC 266*, *Dhananjaya Reddy Vs. State of Karnataka 2001 (4) SCC 9* and *Gujarat Urja Vikas Nigam Ltd. Vs. Essar Power Ltd. 2008 (4) SCC 755*.

In the case of *Grasim Industries Ltd. Vs. Collector of Customs, Bombay, (2002) 4 SCC 297*, the Hon’ble Supreme Court held as under:-

“No words or expressions used in any statute can be said to be redundant or superfluous. In matters of interpretation one should not concentrate too much on one word and pay too little attention to other words. No provision in the statute and no word in any section can be construed in isolation. Every provision and every word must be looked at generally and in the context in which it is used. It is said that every statute is an edict of the legislature. The elementary principle of interpreting any word while considering a statute is to gather the mens or sententia legis of the legislature. Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the Court to take upon itself the task of amending or alternating the statutory provisions. Wherever the language is clear the intention of the legislature is to be gathered from the language used. While doing so what has been said in the statute as also what has not been said has to be noted. The construction which requires for its support addition or substitution of words or which results in rejection of words has to be avoided”.

Hon’ble the Apex Court in the case of *Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd., (2003) 2 SCC 111*, held as under:-

“24. True meaning of a provision of law has to be determined on the basis of what provides by its clear language, with due regard to the scheme of law.

25. Scope of the legislation on the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words statutory enactments must ordinarily be construed according to its plain meaning and no words shall be added, altered or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute”.

In the case of *Harshad S. Mehta Vs. State of Maharashtra, (2001) 8 SCC 257*, it has been held as under:-

“There is no doubt that if the words are plain and simple and call for only one construction that construction is to be adopted whatever be its effect”.

In the case of *Union of India Vs. Hansoli Devo (2002) 7 SCC 273*, Hon’ble the Supreme Court observed as under:-

“9. It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act.”

In the case of *Patango Kadam Vs. Prithviraj Sayajiro Yadav Deshmukh (2001) 3 SCC 594*, took the view:-

"12. Thus when there is an ambiguity in terms of a provision, one must look at well-settled principles of construction but it is not open to first to create an ambiguity which does not exist and then try to resolve the same by taking recourse to some general principle."

Also, Hon'ble the Supreme Court in the case of **Popat Bahiru Govardhane & others vs. Special Land Acquisition Officer & another (2013) 10 SCC 765** has held as under:

"16. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation."

(See *Martin Burn Ltd. v. Corpn. of Calcutta* 10, AIR p. 535, para 14 and *Rohitash Kumar v. Om Prakash Sharma* 11.)

Reverting to the facts of the present case, as per the admitted position, the services of the workman was terminated on 21.12.2001 and the same has been challenged by him by filing the present industrial dispute on 28.02.2011.

So, keeping in view the above said facts as well as the workman cannot derive any benefit from the facts on which he has approached the Tribunal after expiry of period three years from the date of his termination, because his services were terminated on 21.12.2001 and filed the present case on 28.02.2011 u/s 2A (2) of the Act, as such, the claim petition is barred by the period of limitation provided u/s 2A (3) of the Act, liable to be rejected.

Accordingly, the same is rejected on the ground that same is barred by period of limitation as per section 2A (3) of the Industrial Disputes Act, 1947, with liberty to the claimant to pursue its case before appropriate forum as per law.

Award as above.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 28 जुलाई, 2023

का.आ. 1268.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महाप्रबंधक, हिंदुस्तान एयरोनॉटिक्स लिमिटेड, ट्रांसपोर्ट एयरक्राफ्ट डिवीजन, चकेरी, कानपुर (यूपी), के प्रबंधन के संबद्ध नियोजकों और सचिव, हिंदुस्तान एयरोनॉटिक्स एम्पलाइज एसोसिएशन, गोविंद नगर, कानपुर (उ.प्र.), के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 45 of 2020) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.07.2023 को प्राप्त हुआ था।

[सं. एल- 42011/122/2020-आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 28th July, 2023

S.O. 1268.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 45 of 2020) of the Central Government Industrial Tribunal cum Labour Court – Kanpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The General Manager, Hindustan Aeronautics Ltd. Transport Aircraft Division, Chakeri, Kanpur (U.P.), and The Secretary, Hindustan Aeronautics Employees Association, Govind Nagar, Kanpur (U.P.), which was received along with soft copy of the award by the Central Government on 26.07.2023.

[No. L-42011/122/2020-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE SHRI SOMA SHEKHAR JENA, PRESIDING OFFICER CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT KANPUR****Present:** SOMA SHEKHAR JENA HJS (Retd.)**I.D. No. 45 of 2020****L-42011/122/2020-IR(DU) dated 10.11.2020****BETWEEN**

Sh. Gurubhej Singh, Secretary,
Hindustan Aeronautics Employees Association,
House No. D-4, Behind Natraj Cinema, Govind Nagar,
Kanpur (U.P.) - 208006

AND

The General Manager, Hindustan Aeronautics Ltd.,
Transport Aircraft Division, Chakeri,
Kanpur (U.P.) - 208008

AWARD

This award arises in respect of the reference mentioned in the schedule stated below as received from the Government of India, Ministry of Labour in letter No. L-42011/122/2020- IR(DU) dated 10.11.2020.

Schedule

“Whether the action of Hindustan Aeronautics Ltd., Kanpur in transferring Sh. Vinod Kumar Tiwari, Senior Master Technician from HAL, Kanpur Division to HAL, Korwa vide order dated 01.06.2020 as raised by Hindustan Aeronautics Employees Association vide letter dated 12.07.2020 is proper, legal and just? If not, to what relief Sh. Vinod Kumar Tiwari is entitled to?”

Maintainability of this proceeding becomes core question. To clarify in notification no.L-42011/122/2020 Dated 10.11.2020 issued by the Ministry of Labour Government of India this Tribunal has been called upon to adjudicate validity of the order of transfer of claimant workman ShriVinod Kumar Tiwari from HAL Kanpur Division to HAL Korwa Division. It may be correct that Industrial Disputes can be espoused by the registered Trade Unions affiliated to the industry and the registered Trade Unions play crucial role in collective bargaining. It stands well established that Vinod Kumar Tiwari was appointed in HAL, Kanpur with certain terms and conditions enshrined in the agreement of appointment. The incidents of transfer of ShriVinod Kumar Tiwari was subject matter of consideration before the Hon’ble Allahabad High Court in Special Appeal defective no. 884 of 2020. In the order dated 13.10.2020 the following observations were rendered by the Hon’ble Allahabad High Court. “We have considered the submission made by the counsel for the petitioner-appellant and gone through the record. The ground of mala fide has been raised to challenge the order of transfer but without indicating any reason of mala fide and more specifically against the authority issued the order of transfer”.

It is easy to make allegation of mala fide but difficult to prove, thus remains largely vague allegations.

In the instant case also no reason of mala fide and that too against the authority, who has issued the order of transfer, has been given. Thus, the allegations of the mala fide remains for the sake of it.

So far as Clause 20(4) is concerned, the learned Single Judge has taken note of it for transfer from one division to another and for the aforesaid, even reference of certified standing order has also been given. It is otherwise a case for transfer from one division to another and not from one State to another.

Taking into consideration all three aspects, we find no reason for cause interference in the order of the learned Single Judge.

The appeal is thus **dismissed** with no order as costs.

The above stated observations of the Hon’ble Allahabad High Court are binding on this Tribunal in the matter of transfer of claimant workman ShriVinod Kumar Tiwari from HAL, Kanpur Division to HAL, Korwa Division. The above stated observations do operate as of binding force in the matter of transfer of ShriVinod Kumar Tiwari from HAL, Kanpur Division to HAL, Korwa Division in tune with the principle of constructive res judicata. In other words this Tribunal is divested of any jurisdiction to revisit propriety in respect of transfer of Vinod Kumar Tiwari from HAL, Kanpur Division to HAL, Korwa Division simply because one Industrial Dispute has been referred to this Tribunal as stated in the notification mentioned above. Law is well settled that the principle of res judicata is binding on this Tribunal in the matter of adjudication of industrial dispute. The contentions on behalf of the Union that

it has sole right to espouse the industrial dispute and that the observations of the Hon'ble Allahabad High Court in Special Appeal defective no. 884 of 2020 have no force are unsustainable. The stand of the Union appears to be too feeble for continuance of this industrial dispute. What cannot be done directly cannot be permitted to be done indirectly.

It may be correct that before the Hon'ble High Court the Hindustan Aeronautics Employees Association was not a party in Special Appeal defective no. 884 of 2020 but by principle of constructive Res Judicata enunciated in the case law rendered by the Hon'ble Supreme Court of India in **Chairman and Managing Director, Fertiliser and Chemicals Travancore Limited and Another Versus General Security Fertilisers and Chemicals Travancore Employees Association and others** reported in (2019) 11 Supreme Court Cases 323 the order of the Hon'ble Allahabad High Court in **Special Appeal defective no. 884 of 2020** shall be binding on the parties in this proceeding and fresh Industrial Dispute at the instance of the workmen's Union is not maintainable. The Industrial Dispute referred to this Tribunal stands disposed of as un-entertainable with 'Nil' award.

In view of the discussions stated above it is held that this industrial dispute communicated in notification no. L- 42011/122/2020-IR(DU) dated 10.11.2020 Issued by the Government of India Ministry of Labour and Employment is not maintainable and the reference is answered accordingly.

Parties are left to bear their respective costs.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 28 जुलाई, 2023

का.आ. 1269.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, भारतीय प्रौद्योगिकी संस्थान, कल्याणपुर, कानपुर, (उ.प्र.), के प्रबंधन के संबद्ध नियोजकों और अध्यक्ष, मेस कर्मचारी संगठन, आईआईटी कल्याणपुर, कानपुर (यू.पी.), के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 44 of 2015) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.07.2023 को प्राप्त हुआ था।

[सं. एल- 42011/68/2015- आईआर(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 28th July, 2023

S.O. 1269.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 44 of 2015) of the Central Government Industrial Tribunal cum Labour Court – Kanpur, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Director, Indian Institute of Technology, Kalyanpur, Kanpur, (U.P.), and The President, Mess Karmachari Sangthan, IIT Kalyanpur, Kanpur (U.P.), which was received along with soft copy of the award by the Central Government on 26.07.2023.

[No. L- 42011/68/2015-IR(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**BEFORE SHRI SOMA SHEKHAR JENA, PRESIDING OFFICER CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT**

KANPUR

Present: SOMA SHEKHAR JENA HJS (Retd.)

I.D. No. 44 of 2015

L-42011/68/2015-IR(DU) dated 08.07.2015

BETWEEN

The President,
Mess Karmachari Sangthan,
IIT Kalyanpur, Kanpur (U.P.) 208016

AND

The Director,
Indian Institute of Technology,
Kalyanpur,
Kanpur, (U.P.)- 208016

AWARD

1. This award arises in respect of the reference mentioned in the schedule stated below as received from the Government of India, Ministry of Labour in letter No. **L-42011/68/2015-IR(DU) dated 08.07.2015.**

“Whether the action of the IIT Kanpur Management in not accepting the demands including the demand of equal pay for equal work is just and proper, and if not, what relief the concerned casual workers are entitled to?”

The averments of the statement of claim submitted by the claimants may be concisely stated as hereafter:

In the premises of the Indian Institute of Technology, Kanpur in the mess of the Halls of residence daily workers have been engaged and wages of those daily workers are much less than the wages paid to the counter parts who were regular employees. By the agitation of the Mess Karmachari Sangthan and after negotiation some facilities like health care facilities, festival advances facilities etc. have been provided. It is asserted by the claimants that the daily waged workers working in the mess are entitled to get the salary as paid to the regular counter parts on the principle of equal pay for equal work.

The averments in the written statement of the O.P. management are summarized as hereafter:

There is no direct employer employee relationship between the O.P. management and the daily waged workers working in the mess. It is averred that in each Hall of residence its mess committee looks after the day to day affairs of the mess. The daily waged workers of the mess were never recruited by the O.P. Institute and they were engaged in the mess by the Hall Executive Committee. In substance, the O.P. management has refuted the claims of the daily waged workers for wages at par with the regular employees.

In the rejoinder the claimant side has asserted that the daily waged workers in the mess are the employees engaged by the O.P. management. It is averred that as a result of agitation by the Mess Karmachari Sangthan the Director the Institute deputed a group of wardens to negotiate with the office bearers of the Sangthan. It is further averred that since it is only one union the question of recognition does not arise. In substance, in the rejoinder the daily waged workers have claimed for wages equal to the wages of their counter parts appointed on regular basis on the principle of equal pay for equal work.

For adjudication of this industrial dispute the points to be answered are as follows:

1. Whether the action of the IIT, Kanpur management in not accepting the demands of equal pay for equal work is sustainable in eye of law?
2. Whether unregistered trade union can raise industrial dispute as referred in the schedule stated above demanding equal pay for equal work?

Point no. 1: In the statement of claim, the claimants have averred that the Indian Institute of Technology, Kanpur is a residential institution and for the convenience of the students and the research fellows it has halls of residence and hostels and in the mess of the halls of residence cooks, waiters, helpers have been employed. It is averred that some of those workers are regular employees and sixty two workers have been engaged as daily waged workers. It is averred that there is no disparity in the nature of work of the regular employees and the work done by daily waged workers. It is stated by the claimants that wages of the daily waged workers are much less than the regular employees. In the statement of claim the claimants have averred that the management of the IIT, Kanpur without any valid reason has not accepted the demands such as salary in the pay scales as available to regular counter parts working in the mess and other facilities like GPF, Earn Leave, LTC Facilities and providing facilities of official residence to the daily waged workers. At this point it appears pertinent to state that there is no material produced before this Tribunal in respect of a mode of appointment of the regular workers engaged on pay scales and the mode of selection and engagement of the daily waged workers.

Since a group of wardens were deputed to negotiate with the office bearers of the claimants that does not mean that the daily waged workers engaged in the mess are the direct employees of the O.P. management. The exercise of negotiations will not establish master servant relationship between the O.P. management and the claimants by any stretch of arguments. For maintenance of peace and tranquillity inside one engineering research institute its Director had done the commendable job of deputing a group of wardens to participate in negotiation but the same cannot be read that the daily waged workers automatically got the status of regularly appointed employees of the O.P. management.

On the other hand It is seen that the management of the Indian Institute of Technology, Kanpur is governed by the Institute of Technology Amendment Act, 1963. The said act contains exhaustive provisions to be followed in the matter of recruitment of regular staff and the remuneration and the facilities to be provided to them. By claiming that the daily waged workers do the same work like other permanently appointed staff the claim cannot be bolstered up without strong supporting evidence. There is almost no evidence that the daily waged workers were actually selected and appointed by the management of the Indian Institute of Technology, Kanpur by any regular selection and recruitment process. On the other hand from the unshattered evidence of D.W.1 it is evident that the Hall of Residence is managed by a Hall Executive Committee which is an independent body consisting of students representatives and the mess committee in each hall looks after the day to day affairs of the mess and the funds of payment of the said daily waged workers were generated out of the fees deposited by the students. Wages are not paid simply looking at the work discharged by the workers. In addition to the quality of work responsibility shouldered by the workers also plays a crucial part in the determination of wage structure.

On behalf of the claimant side Mess Karmchari Sangthan Case Law State of Punjab and Ors. Appellants Vs. Jagjeet Singh and Ors. Respondents in Civil Appeal No. 213 of 2013 pronounced by the Hon'ble Supreme Court of India has been relied. In the aforesaid case law the Hon'ble Supreme Court of India delivered the verdict of equal pay for the drivers engaged in different departments and under Delhi Police Force. On-going through the said case law it is manifest that the said case law was pronounced on the principle of equal pay for equal work to all concerned temporary employees and their rights to claim wages at par with the minimum of the pay scale of regularly engaged Government employees holding the same post. The factual aspects of the said case are clearly distinguishable from the facts of the case in hand. Needless to say the claimants of this case were not appointed against any post rather they were engaged as workers on daily wage. In such scenario the case law State of Punjab and Ors. Appellants Vs. Jagjeet Singh and Ors. Respondents in Civil Appeal No. 213 of 2013 pronounced by the Hon'ble Supreme Court of India may not go to bolster up the case of the claimants.

In Civil Appeal No. 913-914 of 2021 Union of India and Ors. Appellants Vs. Manoj Kumar and Ors. Respondents. It has been enunciated by the Hon'ble Supreme Court in following words:

Para 19. We are fortified in the view we are seeking to adopt in interpreting the aforesaid paragraphs of the Pay Commission by the observations in Union of India v. Tarit Ranjan Das,' where it was opined that the principle of equal pay for equal work cannot be applied merely on basis of designation. While dealing with the 5th Pay Commission recommendations with respect to functional requirements, it was held that there was no question of any equivalence on that basis. The said case dealt with Stenographers of the Geological Survey of India. While observing that as a general statement it was correct to state that the basic nature of work of a Stenographer remained by and large the same whether they were working for an officer in the Secretariat or for an officer in a subordinate office; it was held that Courts ought not to interfere if the Commission itself had considered all aspects and after due consideration opined that absolute equality ought not to be given.

In view of undemolished evidence, it cannot be logically concluded that the daily waged workers are legally entitled for wages at par with the wages of permanently appointed staff. It is also concluded that there is no direct master servant relationship between management IIT, Kanpur and the claimants and as such legally the O.P. IIT, Kanpur management cannot be directed to pay wages at par with monthly salary payable to the regular employees.

Answer to this point goes against the claimants.

Point No. 2: The competence of one unregistered trade union to espouse industrial dispute has been well explained by the Hon'ble Allahabad High Court in the order dated 22.09.2021 in WRIT C No. 33348 of 2016.

In view of the exposition of law referred above it is clear that unregistered trade union is not vested with lawful authority to espouse industrial dispute. If unregistered trade unions are allowed to raise industrial dispute the basic principles of collective bargaining shall be transgressed. There is evidence that the registration in favour of the claimant has been withdrawn. It is not clear if the Union has been clothed with valid registration.

The answer to this point no. 2 goes against the claimant.

In the result negative award is passed against the claimants but it is clarified that the Mess Committees/O.P. management are not restrained from conferring any benefit on the daily workers if any commendable work is done by them.

Parties are left to bear their respective costs.

SOMA SHEKHAR JENA, Presiding Officer

नई दिल्ली, 1 अगस्त, 2023

का.आ. 1270.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स चटर्जी क्लीनिंग आर्ट्स सर्विसेज प्राइवेट लिमिटेड के प्रबंधक, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (15/2018) प्रकाशित करती है।

[सं. एल- 12011/30/2018-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 1st August, 2023

S.O. 1270.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 15/2018) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata as shown in the Annexure, in the industrial dispute between the management of M/s. Chatterjee Cleaning Arts Services Pvt. Ltd. and their workmen.

[No. L- 12011/30/2018-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. BHUTIA, Presiding Officer

REF. NO. 15 of 2018

Parties: Employers in relation to the management of

M/s Chatterjee Cleaning Arts Service Pvt. Ltd.

AND

Their Workmen/ Union

Appearance:

On behalf of Management: M/s Chatterjee Cleaning Arts Service Pvt. Ltd. : None

On behalf of the Workmen/ Union : None.

Dated 17th May, 2023

AWARD

Neither the Management nor the Representative of the Union are found present when the matter is called. As per track report dated 18.01.2023 notice sent to the Union at Jalpaiguri through Speed Post on 16.01.2023 was duly served upon it.

That apart record shows the Union which has espoused the dispute had put appearance and had also filed its claim statement, but since 19.03.2020, it has stopped pursuing with the dispute.

However, the Govt. of India vide its Order No. L-12011/30/2018-IR(B-I) dated 22.10.2018 has referred the dispute “Whether the action of the contractor M/s Chatterjee Cleaning Arts Services Pvt. Ltd., Kolkata, a contractor of SBI, Siliguri Module, reducing 33% of Salary from the month of October, 2017 of Housekeeping workers deployed in the establishment of State Bank of India, Siliguri Module without giving notice of change U/s 9A of I.D. Act, 1947 to the concerned workers, is legal and/ or justified? If not, what relief the workers are entitled to?” to this Tribunal for adjudication.

The Union has filed its claim statement on 23.12.2019 and Contractor Employer has filed its W/S on 22.11.2022. But, no oral or documentary evidence have come on record from the side of the Union as well from the side of the Contractor Employer in support of their respective claim and defence.

Thus, their pleading of the parties stand not proved and as such, this Tribunal is unable to decide the dispute under reference on the basis of uncorroborated pleading of the parties.

Further, this Tribunal is of view none appearance of the union since 19.03.2020 a presumption can be drawn that it has no more grievance and dispute against the Contractor Employer M/s Chatterjee Cleaning Arts Services Pvt. Ltd.

In the above circumstance, no dispute award is passed. Accordingly, Reference No. 15 of 2018 is disposed of.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 1 अगस्त, 2023

का.आ. 1271.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स सी.एम.एस इन्फो सिस्टम प्राइवेट लिमिटेड के प्रबंधन, संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (59/2015) प्रकाशित करती है।

[सं. एल- 12011/57/2015-आई आर (बी-1)]

सलोनी, उप निदेशक

New Delhi, the 1st August, 2023

S.O. 1271.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 59/2015) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata as shown in the Annexure, in the industrial dispute between the management of M/s. CMS Info System Pvt. Ltd. and their workmen.

[No. L- 12011/57/2015-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. BHUTIA, Presiding Officer

REF. No. 59 of 2015

Parties: Employers in relation to the management of

M/s CMS Info System Pvt. Ltd.

AND

Their Workmen

Appearance:

On behalf of Management : None

On behalf of the Workmen: None

Dated 24th April, 2023

AWARD

Parties are found absent. None appears when the matter is called.

The Union fails to file show-cause.

Therefore, presumption can be drawn. Parties are not interested to pursue with the present reference case.

Central Govt. through Ministry of Labour vide Order No. L-12011/57/2015 – IR (B-I) dated 08.09.2015 has referred the following dispute:-

“Whether the management of M/s CMS Info System, contractor of Axis Bank and other scheduled Banks in denying the charter of demands, which include “agreed Wages” in the line of Central Govt. Minimum Wages and other fringe benefits (as mentioned in Annexure-A) is legal and/or justified? If not, what relief the workmen are entitled to” for adjudication by this Tribunal.

The Union has filed its claim statement where it has alleged that 120 persons working for CMS Info System Pvt. Ltd. as gun man / driver Custodian and guard etc. were paid salary below the minimum wages. They were not paid overtime, VDA and other incidental financial benefits to which they are entitled. They have placed charter of demands before the Management. But the management did not pay any heed to their demands. Unfortunately, the Union who has raised such dispute failed to pursue the dispute by adducing evidence to substantiate its claim that the workman whom it represent are indeed were/ are paid wages below the minimum wage to which they are entitled to as they are deprived of overtime, VDA, HRA, conveyance allowance and annual increment and other incidental financial benefits. Therefore, there is no material to substantiate the claim of the Union.

In view of the above, Reference Case No. 59 of 2015 is disposed of.

Send copy of Award to the Ministry for doing the needful.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 1 अगस्त, 2023

का.आ. 1272.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स बालमेर लॉरी एंड कंपनी लिमिटेड के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (85/2014) प्रकाशित करती है।

[सं. एल- 32011/02/2014-आई आर (बी- II)]

सलोनी, उप निदेशक

New Delhi, the 1st August, 2023

S.O. 1272.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 85/2014) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata as shown in the Annexure, in the industrial dispute between the management of M/s. Balmer Lawrie & Co. Ltd. and their workmen.

[No. L-32011/02/2014-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. BHUTIA, Presiding Officer

REF. No. 85 OF 2014

Parties: Employers in relation to the management of

M/s. Balmer Lawrie & Co. Ltd.

AND

Their Workmen

Appearance :

On behalf of Management : Mr. S.K. Karmakar

Advocate

On behalf of the Workmen : None

Dated 9th January, 2023

The Government of India, Ministry of Labour vide its order number L- 32011/02/2014- IR (B –II dated 18.12.2014 has been pleased to refer the following dispute for adjudication to this tribunal;

“Whether the action of the management of M/S Balmer Lawrie and Co Ltd, in depriving the contractual workmen by withdrawing the payment of FCL charges by violating section 9A of the ID Act, 1947 is legal and/or justified? What relief the workmen were entitled to?”

The facts giving rise to the to the dispute in brief is that the company is a government of India enterprise and has a container freight station at Kolkata Port and Dock premises. It used to get its work done at the Port and Dock premises with the help of labourers supplied by contractors. The workers engaged by contractors were entitled to wages and delivery charges, but suddenly the Management without serving notice under section 9A of the ID Act, withdrew the system of payment of FCL charges to contract labourers for appraising, de-stuffing, stuffing and sweeping of containers at CFS yard. The rate for such job was R.230/- each for a container with 20 feet in height and Rs.345/- each for a container having 40 feet height and which they were getting since 1994. The FCL facility is a condition of service. The unilaterally act of management to stop payment with effect from June, 2003 without any settlement with unions is in violation of Section 9A of the Act. Therefore, it has prayed for restoration of FCL facility with retrospective effect from 1.17. 2003 with all arrear due.

On the other hand, it has been contended by the management the present reference is not maintainable as the dispute between the principal employer and employees of the contractors cannot transform to be an industrial dispute. That their subsists no employer and employee relationship between the management and the employees of the contractors. The contractors with whom the principal employer had agreement for different natures of job at the Kolkata Port are liable to pay whatever charges their employees are entitled to as per the terms and condition of employment between them and their employees. As per the terms and conditions of agreement executed between the management and the contractor employers, the management has no responsibility to pay wages and delivery charges to its contractors' employees. Therefore, it has prayed for dismissal of reference.

Unfortunately, the union who has raised the present dispute on behalf of the contractual employees working in the Kolkata Port, for M/S Balmer Lawrie and Co Ltd, has failed to pursue with the hearing of the reference by adducing evidence both oral and documentary to prove indeed the contractual employees were entitled to the charges for appraising, de-stuffing, stuffing and sweeping of containers at CFS yard since 1994 and their immediate contractors used to pay such charges to them and who in turn used to get reimbursement from the principal employer. It is very interesting to note that Contractor Employers have not been made parties to the present proceeding.

Per-contra, the Management/ the Principal Employer is all along found present and ready to conduct the hearing.

The absence of the Union and its reluctance to proceed further with the hearing of the case give rise to an assumption that it has no grievance against the principal employer.

Accordingly, suit no dispute award is passed.

Therefore, reference case number 85 of 2014 is hereby disposed of, without any cost.

Send copy of this award to the ministry for doing needful.

Supply free copy of this award to the parties as per law.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 1 अगस्त, 2023

का.आ. 1273.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (03/2009) प्रकाशित करती है।

[सं. एल- 12012/75/2008-आईआर(बी- II)]

सलोनी, उप निदेशक

New Delhi, the 1st August, 2023

S.O. 1273.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 03/2009) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata as shown in the Annexure, in the industrial dispute between the management of Indian Bank and their workmen.

[No. L- 12012/75/2008-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. BHUTIA, Presiding Officer

REF. No. 03 OF 2009

Parties: Employers in relation to the management of

Indian Bank

AND

Their Workmen/Union

Appearance:

On behalf of Management: **Indian Bank: Ld. Counsel Anirban Das Gupta**

On behalf of the Workmen/ Union : Absent

Dated 3rd May, 2023

AWARD

The Management of Indian Bank is represented by its Ld. Counsel Anirban Das Gupta. Despite due service of notice as per track report the workman Sri C.P. Gopinathan fails to appear.

Nonappearance of the workman proves that he is no more interested to pursue the dispute raised by him, challenging the order of his termination from the service.

The Central Govt. vide Order No. L-12012/75/2008 -IR (B-II)) dated 16.02.2009 has referred the following issue for adjudication by this Tribunal :-

“Whether action of the management of Indian Bank, Circle Office, Kolkata in imposing the punishment of ‘Compulsory retirement from service with Superannuation Benefits’ w.e.f. 29.11.2006, on Sri C.P. Gopinathan is justified? What relief the workman is entitled for?”

The record shows the workman had filed his statement of claim and where he has alleged he was appointed as a clerk /staff in the Indian Bank, Shibpur Branch, Howrah. His service was illegally terminated w.e.f. 29.11.2006 without giving any opportunity to him to submit his representation against the charge of absenteeism brought against him. He was not given opportunity to place his case in the domestic enquiry / disciplinary proceeding. That without hearing him he was held guilty of the charge. Without giving him opportunity of being heard, he was removed from the service w.e.f 29.11.2006.

He has contended that he had to leave for his native place in Kerala on receiving news of illness of his mother. In emergency he had to leave the place of work for Kerela and for which he could not obtain sanctioned leave. Then after, he suffered from Bell’s Parsy which affected his eyes, face, teeth and jaw, which compelled him to remain away from his place of posting. For remaining absent from duty due to his own health and family problem he was illegally terminated from the service.

Therefore, he has prayed for recalling his termination order and prayed for reinstatement with full back wages along with other benefits.

Such case of the workman has been contested by the management of the bank by filing written statement and where it has alleged that concerned workman was a habitual absentee. His absenteeism was of abnormal proportion. He used to remain absent without any information and prior sanction of leave.

That he was served with a charge-sheet for his unauthorised leave as described as gross misconduct in view of Clause -5 (p) of bipartite settlement dated 10.04.2002 on 16.07.2004.

The concerned workman submitted his reply to the charge-sheet, but finding his explanation not satisfactory, the management decided to hold an enquiry into the charge and intimated the workman about the same on 20.04.2005.

The Enquiry Officer too duly informed the workman about the date of hearings and venues on several occasions, but he did not bother to appear before the Enquiry Officer and as such the enquiry was proceeded ex parte against him. The enquiry officer submitted his report holding him guilty of the charge on 28.08.2006.

The report of the enquiry officer was sent to the workman with a direction to submit his explanation on 10.10.2006, but which was returned undelivered.

Then disciplinary authority considering the charge brought against the workman, the report of the enquiry officer proposed to impose punishment of the compulsory retirement as per terms of Clause-6 (c) of the bipartite settlement dated 10.04.2002.

Accordingly, the concerned workman was directed to show causes as to why the proposed punishment should not be imposed upon him on 07.11.2006. But the concerned workman did not bother to file his show cause. Therefore, the disciplinary authority confirmed the punishment of compulsory retirement from service with superannuation benefit w.e.f 29.11.2006.

The workman preferred an appeal against the order of punishment dated 29.11.2006 on 10.11.2007. Appellate Authority rejected the appeal by assigning the reason and confirmed the order of the disciplinary authority.

The management has alleged compulsory retirement of the workman is a result of the prolonged disproportionate unauthorised absence from the duty. Thus it has prayed for dismissal of the reference.

Unfortunately, the workman has failed to adduce any evidence either oral or documentary to prove that the management of bank without adhering to the principle of natural justice conducted disciplinary proceeding against him, he was not given any opportunity to place his defence or he was not heard or by adopting unfair practice, the management held him guilty.

On the other hand, the documents filed by the management show that the workman was a habitual absentee. He had the habit of availing leave without prior intimation or prior sanction of leave. It is admitted fact the workman is an ordinary resident of state of Kerala and he was appointed as clerk of Indian Bank and was posted at Shibpur, Howrah Branch.

The workman was on continuous leave on and from 28.07.2003 to 06.08.2003, and from 01.12.2003 to 20.07.2004. That he was not paid salary during those as he had no leave in his credit.

Such very facts also proves that prior to 28.07.2003, the workman had availed all the leave which was in his credit. The continuous absence of this workman, a man from Kerala and was posted in West Bengal from 01.12.2003 to 20.07.2004 shows that he was not diligent and sincere in discharging his duty.

That apart, record of the departmental proceeding shows that workman was served with the copy of the charge-sheet. He had also submitted reply to the charge brought against him. That he was informed about the departmental enquiry, but he reason best known to him failed to participate in the enquiry proceeding. That enquiry was proceeded ex parte against him.

It was seen the report of the enquiry officer, the workman did not bother to submit his representation and participate in the proceeding and thereafter acknowledge the management decision to remove from the service. But, moment he was served with the order of removal from service, it appears he had preferred an appeal, challenging his removal from service. However, considering the conduct of the workman and gravity of charge, the appellate authority rejected his appeal. Therefore, this tribunal does not find any unfair practice being adopted by the management against the concerned workman or violations of principle of natural justice during enquiry proceeding. The enquiry proceeding is held to be legal and valid.

Therefore, this court holds the management is justified in removing the workman who had the habit of remaining absence from the duty for months together putting the administration of the bank in difficulties. The order of compulsory retirement of the workman from the service of a bank clerk w.e.f.29.11.06 with superannuation benefits is held valid and justified.

Therefore, this tribunal does not find any merit in the present reference case.

Accordingly, the Reference Case is dismissed. Award of dismissal is passed accordingly.

Reference Case 03/2009 is disposed of.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 1 अगस्त, 2023

का.आ. 1274.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार हल्दिया डॉक कॉम्प्लेक्स के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (19/2016) प्रकाशित करती है।

[सं. एल-32011/05/2015 -आई आर (बी- II)]

सलोनी, उप निदेशक

New Delhi, the 1st August, 2023

S.O. 1274.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 19/2016) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata as shown in the Annexure, in the industrial dispute between the management of Haldia Dock Complex and their workmen.

[No. L- 32011/05/2015-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. Bhutia, Presiding Officer

REF. No. 19 OF 2016

Parties: Employers in relation to the management of

Haldia Dock Complex Spice Jet Airlines Ltd.

AND

Their Workmen

Appearance :

On behalf of Management	: Absent
On behalf of the Workmen	: Absent

Dated 29th May, 2023

AWARD

Parties are found absent when the matter is called.

Notice has been duly served to the union at its address as per AD card but Union fails to appear. In fact, the record shows the union which has raised the dispute has failed to appear inspite of having due knowledge that the dispute it has raised against the management of Port Trust Haldia Dock Complex has been referred by the Government to this Tribunal for adjudication in the year 2016. Therefore, non-appearance of union which has espoused the dispute before the Labour Commissioner and on whose failure report, the Government has referred the dispute to this Tribunal for adjudication.

The Central Government, Ministry of Labour vide its order No. L-32011/05/2015 (IR B-11 dated 15.2.2016 has referred following dispute to this Tribunal for adjudication.

“Whether the action of management of M/s Five Star Shipping Agency (P) Ltd. by not paying arrear wages to (1) Shri Hiralal Das Adhikary (2). Chand Ali (3) Shri Prahallad Manna as per the computation sheet (Annexure-I is legal and/or justified? If not, what relief the workmen are entitled to?”

From the above reference, it is seen the reference is espoused the case of three contractor employee who have not been paid arrear wages by their employer. Unfortunately Kolkata Port and Shore Mazdoor Union, 40 D, Watgunge Street, Kolkata-700023 which has raised the dispute on these three contractor workmen failed to appear despite

receiving due service of notice upon it. Therefore, it can be presumed either the dispute have been settled between the contractor employer and its employee or that the employee have no more grievances against the management. That apart no material is in record to decide the issue under reference.

Accordingly, no dispute award is passed and reference no. 19 of 2016 is disposed of.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 1 अगस्त, 2023

का.आ. 1275.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनाइटेड कमर्शियल बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (47/1999) प्रकाशित करती है।

[सं. एल-12012/202/99 -आई आर (बी- II)]

सलोनी, उप निदेशक

New Delhi, the 1st August, 2023

S.O. 1275.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 47/1999) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata as shown in the Annexure, in the industrial dispute between the management of United Commercial Bank and their workmen.

[No. L- 12012/202/99-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. BHUTIA, Presiding Officer

REF. NO.47 OF 1999

Parties : Employers in relation to the management of

United Commercial Bank

AND

Pradip Kumar Sinha

Appearance :

On behalf of the Management : Smt. Jayati Ghoshal, Advocate

On behalf of the Workman : None

Dated: 22nd May, 2023

AWARD

The Govt. of India, Ministry of Labour vide order No. L-12012/202/99/IR-(B-II) dated 29-10-1999 and in exercise of power conferred under section 10(1) (d) and 2(A) of the Industrial Dispute Act, 1947 has referred the following dispute raised by the workman, to this Tribunal for adjudication “whether the action of the management of United Commercial Bank in dismissing Sh. Pradip Kumar Sinha from service is legal and justified. If not, to what relief is Sh. Sinha entitled to”.

The facts, necessary for adjudication of the dispute in gist is that on the demise of Prafulla Kumar Sinha, an employee of the bank, his son Sri Pradip Kumar Sinha was given employment in the bank as a clerk on compassionate

ground on 19-07-1988. Sri Pradip Kumar Sinha joined the service as a Clerk of the Bank at India Exchange Place Branch on 19-07-1988, but he was transferred to Prince Anwar Shah Road Branch on 21-07-1988.

During his posting at Prince Anwar Shah Road, he was attached to the section which deals in Fixed Deposit and issuance of Cheque Books.

While updating the balance of Fixed Deposits and other accounts after Mr. N.C.Kar, took charge of P.A.S. Branch on 27.12.1990, it was detected that a fixed deposit amounting to Rs.50,000/- in the name of one Sri Asok Kumar Das (already encashed) and another Fixed Deposit of Rs.10,000/- in the name of Smt. Ajmira Khatun (already encashed), were created without any value. On detection of such anomaly of Rs.60,000/- in the account of the Fixed Deposit investment, Mr. Kar reported the matter to Divisional Manager and bank initiated a preliminary enquiry through Mr. MAM Ali as per direction of Zonal Manager.

It was found said Smt. Ajmira Khatun had opened a Savings Bank A/c. no.5898 on being introduced by the delinquent workman Sri Pradip Kumar Sinha on 21-04-1989.

Further, it was found a fixed deposit of Rs.10,000/-for 46 days on 6-11-1990 was created in the name of Ajmira Khatun. That cash of Rs.10,000/-was shown deposited against such Fixed Deposit no.990619/653/90. But no entries of deposit of Rs. 10,000/-was found recorded either in relevant scroll register or in cash receipt register. The FDR application of Ajmira Khatun and credit voucher dated 06.11.1990 were found missing from the Branch. However, the matured amount of Rs.10,102.25/- was credited in her Savings Bank A/c on 22.12.1990. It was also found that out of matured value of Rs.10,102.25, a sum of Rs.3,000/-was transferred in the Savings Bank A/c. No.5659, standing in the name of delinquent workman on 04-01-1991 and remaining amount of Rs.7,126.25 was withdrawn by said Smt. Ajmira Khatun.

Further, it was detected another fixed deposit receipt having No.549372/263/91 worth Rs.50,000/- was created in the name of one Sri Ashok Kumar Das for a period of 46 days on 08-06-1991 and matured value was credited in the Savings Bank A/c. No.6568 of Sri Ashok Kumar Das opened on 22-07-1991, on being introduced by the delinquent workman Sri Pradip Kumar Sinha with initial deposit of Rs.10/-.

Further, it was detected that Fixed Deposit Certificate was taken by the delinquent workman after putting his signature on the counter part. Cheque Book with 20 leafs bearing No.343020-343040 issued against the said Savings Bank A/c. of Sri Ashok Kumar Das, was taken by the delinquent workman Sri Pradip Kumar Sinha for delivery to the customer.

Sri Pradip Kumar Sinha had Savings Bank A/c. No.5659 which was later renumbered as S-22 and had another joint A/c. with his mother Smt. Helena Sinha having No.5737. It was found that from the A/c. of Sri Ashok Kumar Das Rs.20,000/- out of the matured value of Rs.50,504/- was transferred to the joint A/c. of the delinquent workman and his mother and the balance amount of Rs.30,514/- was gradually withdrawn through cheque or credited to the account of the delinquent.

Sri Ashok Kumar Das in writing informed the Bank on 07-04-1992, that he never gave any money to the delinquent workman to invest in the Fixed Deposit or he never opened any Savings Account or withdrew the matured value of Fixed Deposit from his Savings Bank A/c.

Sri Pradip Kumar Sinha before the authority concerned confessed committing fraud with the bank.

Then the delinquent workman was placed under suspension by an order dated 21-04-1992. FIR was lodged against him for committing fraud with the bank with Jadavpur Police Station on 14-09-1992. Then after he was served with the charge sheet dated 8th July, 1993 and was asked to submit his explanation within seven days from the date of receipt of the charge sheet dated 8th July, 1993.

The delinquent workman submitted his reply to the charge sheet on 22-07-1993, but the authority was not satisfied and decided to hold a Departmental Enquiry against him. Accordingly, Sri T.B. Mallick was appointed as an Enquiry Officer and Sri Dipak Misha as Presenting Officer.

The Delinquent workman fully participated and also took help of his co-staff Sri S. Majumdar to defend him in the departmental enquiry.

The Management examined nine witnesses and presented 62 documents. The nine witnesses were cross examined by the representative of the delinquent workman. The delinquent workman and his defense representative were allowed to inspect the documents that were produced from the side of the management. The delinquent workman examined Sri Ashish Deb, a clerk who was posted at UCO. Bank, Prince Anwar Shah Road Branch as a witness from his side and had also produced three documents in his defence.

The Enquiry Officer after considering the material on record and written submission filed by both sides, found the delinquent workman guilty of the charge of defrauding the bank to the tune of Rs.60,606.25.

The Disciplinary Authority, after considering the report of the Enquiry Officer came to the concurrence with the finding and considering the gravity of the mis-conduct committed by the delinquent workman, the disciplinary authority proposed to punish the delinquent workman with removal from the service.

The Disciplinary Authority before imposing proposed punishment gave an opportunity to the delinquent workman to make his submission personally and issued a notice asking him to appear before the authority on 21-10-1998. Unfortunately, the delinquent workman chose not to appear before the disciplinary authority. Therefore, the disciplinary authority dismissed the delinquent workman from service without any notice.

The delinquent workman had challenged the disciplinary proceeding before the Hon'ble High Court at Calcutta by filing writ petition being No.CO-1394(W) of 1996. The Hon'ble High Court granted an interim order restraining the bank from passing final order in the departmental enquiry. Ultimately, the Hon'ble High Court vacated the interim order and dismissed the writ petition on 05-08-1998.

The delinquent workman challenging his termination from the service raised present dispute before the authority concerned. Hence this reference. It is very interesting to note, the workman in his written claim statement has merely stated he has been illegally terminated from the service. But nothing has been mentioned about the reasons of his termination from service and the ground on which his service was terminated by his employer bank. He has merely stated that he became the victim due to rivalry between two rival trade unions of the bank and for which he was terminated from the service.

Since the workman has been terminated from the service as a Clerk of UCO Bank after finding him guilty of the misconduct of defrauding the bank with a tune of Rs.60,606.25/- on the basis of an enquiry report, therefore, it becomes necessary to ascertain whether the domestic enquiry which was conducted by the management of the bank against the workman is legal and valid?

The workman has examined himself as WW-1. The management has examined Smt. Rupasree Roy as M.W.1 and Sri Tushar Baran Mallick, the Enquiry Officer as M.W..2.

The order sheet dated 19-09-2001 shows 11(eleven) documents have been marked as Exhibit- W-1 to W-11 from the side of the workman on formal proof being dispensed with and on concurrence of both parties. Similarly, 8(eight) documents have been marked as Exhibit-M-1 to M-8 on formal proof being dispensed with from the side of the management on 17-02-2004.

It is worth to mention here, the delinquent workman who has raised the present dispute has stopped appearing before this Tribunal on and from 01-11-2022. Therefore, the Tribunal decided to dispose of the present reference case invoking Rule 22 of Industrial Dispute (Central) Rules, 1956 as if the concerned workman is present as he kept himself away from Tribunal once the case has been fixed for argument/final hearing.

Perused the record of departmental enquiry and from where it appears the management has examined Md. Jahinul Haque, the husband of Smt. Ajmira Khatun. His evidence recorded by the Enquiry Officer on 14-06-1994, shows that he is an ordinary resident of Village- Bagnapara, P.S. Maheshtala, Dist. South 24 Parganas, Budge Budge. Whereas the Bank in question is located at Prince Anwar Shah Road, within Jadavpur Police Station, located on the South Calcutta. A question arises in the mind of the Tribunal, how a village Muslim lady living at Budge Budge area could open a bank account at a distance place as no one can say Budge Budge, where several jute and cotton mills as well as oil depots and refineries are located has no banking facilities. Rather, from Google search it appears there are 17 branches of nationalised banks including that of UCO Bank and the private banks at Budge Budge.

Md. Jahinul Haque, M.W.2 in his evidence recorded by Enquiry Officer has stated that delinquent workman was known to him and as such he opened a savings account in the bank in question in the name of his wife. He purchased FDR of Rs.10,000/- in the name of his wife. He gave cash money to the delinquent workman Sri Pradip Kumar Sinha for doing needful.

Dipak Baran Saha, the then Assistant Manager admitted before E.O. his signature appears on the disputed FDR of Rs.10,000/- but he has stated the depositor has to submit an application in prescribed form along with cash/credit voucher in case of deposit is made by cash. The money has to be deposited with cashier and who will put his initial on the voucher with scroll number and head cashier too verify the same. Then credit/cash voucher is taken to the concerned clerk for issuance of FDR. Then FDR along with the voucher and application are produced before the Managers for signatures. He has also stated when the fraud was detected it was found there was no credit voucher for Rs.10,000/- dated 06.11.1990 in the Bank record.

He has also stated that disputed FDR is in the handwriting of the delinquent workman. The Defence Representative Subroto Majumdar for reason best known to him has failed to appear during examination of this witness on different dates. The workman who was present too has failed to cross examined him.

Md. Jahinul Haque, has stated, since he owed Rs.3,000/- to Sri Pradip Kr. Sinha and as such his wife transferred Rs.3,000/- from the matured value of Rs.10,102.25/- and balance amount was withdrawn by his wife from the said savings bank account. It has come on record that said Savings Bank A/c. was never operated thereafter.

Therefore, it can be stated that Sri Pradip Kr. Sinha in connivance with M.W.2 and his wife in order to defraud the bank procured FDR of Rs.10,000/- without any value.

The evidence of M.W. Sri Subir Kumar Bose, Assistant Manager who was posted at Prince Anwar Shah Road Branch in between October, 1989 to November, 1991 stated that on 06-11-1990 there was investment of Rs.15,000/- and Rs.10,000/- towards FDR in respect of F.D.R. nos.990618 and 990619, but there was only one credit transfer of Rs.15,000/- against F.D.R. No.990618 and no credit transfer against FDR No.,990619 for Rs.10,000/-. He has stated that entries in the relevant register in respect of FDR No.,990619 for Rs.10,000/- was made in the hand writing of Sri Pradip Kr. Sinha, the day same was created and on the day matured amount was transferred in the savings account of Smt. Ajmira Khatun.

He has also stated that credit voucher dated 27-12-1990 against the matured value of the F.D. of Smt. Ajmira Khatun was in the hand writing of Sri Pradip Kr. Sinha. He has also stated, at the relevant time Sri Pradip Kr. Sinha was allotted duty in the F.D. Department as Dealing Assistant.

The Defence Representative Subroto Majumdar has cross examined this witness and who invariably stated the Branch Manager and Assistant manager put their signatures on FDR on production of application form and credit vouchers bearing the seal signature of the cashier. He admitted putting his signature on the disputed FDR as well on the voucher produced at the time of encasement of the same. But at the same time he has stated he signed on the same on being satisfied the dealings clerks have done their job of verifying with official records and after verifying endorsement to that effects by the dealings clerks on relevant forms and vouchers. He has stated in all the relevant registers the delinquent workman had made entries and put his signature.

Smt. Rupasree Roy, the then Supervisor of F.D. Department stated, in case a customer wants to invest in FDR in cash, he need to deposit the cash with the Cash Counter at the Teller and who on receiving the cash puts signature and stamp on the cash vouchers. Then the higher officer acts further on the basis of the said voucher. She has stated the counterpart of FDR for Rs.50,000/- in the name of Ashok Das bears signatures of herself, Subroto Chakroborty and the delinquent workman. The credit vouchers dated 25.07.91 for the proceeds of said FDR bears the signature of Subroto Chakroborty and matured value of the same was credited in the Account of Ashok Das opened on 22.07.91 with Rs 10/-. The deposit voucher of Rs.10/- was made in the handwriting of P.K.Sinha. She during cross by the representative of the workman has invariably stated the cheque book with twenty leaves were issued against the saving account of Ashok Das and was given to the delinquent workman for delivery without authorisation.

Here, I find some laches on the part of Bank official in handing over the cheque book without authorisation. But the documents that have been produced by the management during the enquiry leaves no room for doubt that delinquent workman who was well aware of the fallacy and casual way of working of his higher authority or loopholes in the way work was done in the Bank and taking advantage of the same he appears to have exploited the faulty system of working of the bank for his own benefit. It is also seen the officials of the Bank used to work in good faith with their subordinate staff .

So, an inference can be drawn that Sri Pradip Kr. Sinha, an employee of the bank who is working as a dealing assistant in F.D. Department could easily manipulate the vouchers without making any cash deposit. Such inference stands supported by the evidence of Ashok Das and which is discussed below.

Sri Ashok Kumar Das who has been examined and cross examined during domestic enquiry has stated that he is an unemployed person living with his elder brother, who runs a grocery shop at H.L. Sarkar Road, Bansdrani, Chittaranjan Park, Kolkata- 70. He helps his brother in the said grocery shop. He has no independent income of his own or he ever had a sum of Rs.50,000/- with him. He had also stated that he became acquainted with Sri Pradip Kr. Sinha, who shifted to a house situated opposite to his brother's grocery shop at H.L. Sarkar Road and who often used to come to their shop to do grocery purchase.

He has also stated that Sri Pradip Kr. Sinha, an employee of the bank one day told him that he had Rs.50,000/- in the bank. That the Income Tax Officer may come to the branch in respect of Rs.50,000/- and wanted such Rs.50,000/-transferred in his name in the Fixed Deposit and asked him to sign on some blank papers which he did. Later he was asked to sign on the cheques and which he did. He has further stated, he was never given the Fixed Deposit receipt by Sri Pradip Kr. Sinha. He had also stated the he was not aware of any savings bank account being opened in his name by Sri Pradip Kr. Sinha. Such statements of Ashok Das prove how Sri Pradip Kr. Sinha misused his posting at Prince Anwar Shah Road Branch and how he used Ashok Das in creation of a fictitious FDR and Savings account in the bank in the name of Ashok Das.

The documents filed by the management during enquiry further prove the involvement of the delinquent in practising fraud upon the Bank. If the FDR standing in the name of Ashok Das was indeed a genuine investment made by Ashok Das, then it is not known why the entire matured value was withdrawn and transferred in the two accounts

of the delinquent maintained in the same branch one a joint account with his mother and the other his own personal account and by way of different modes on different dates and using the cheques, the delivery of which was taken by him.

Mr. N.C.Kar, the then Branch Manager of the concerned Branch has stated, the Higher official had signed on both the disputed FDRs as vouchers which were produced had all the characteristics of a valid vouchers with scroll numbers, received stamp and signatures of receiving cashier and as such FDRS were issued.

The statement of Ashok prove how the workman could open a bank account and procure a false FDR by misrepresenting him.

The workman who has been examined under oath before the Tribunal as W.W.1 on 21-06-2001 liked his evasive written statement of claim has deposed in the same manner. He has merely stated the date when he joined the service, his date of confirmation, date of his suspension, about FIR being lodged against him by the management, about enquiry proceeding, about acquittal from the criminal case. His evidence is totally silent why he was placed under suspension, the reason behind the charge brought against him the management and for committing what act and omission the criminal case was lodged against him. He merely stated the enquiry proceeding conducted against him was unfair, but there is nothing how it was unfair. However, during cross examination he stated that his representative had cross examined the management witness; even he had produced witnesses and documents before the Enquiry Officer. That he did not prefer any appeal against the order of termination of his service by the Disciplinary Authority before Appellate Authority.

On the other hand, M. W.1 Smt. Rupasree Roy in her evidence stated that Sri Pradip Kr. Sinha, a clerk of Prince Anwar Shah Road Branch, was charge sheeted in the year 1992 for committing fraud upon the Bank and causing loss to the Bank to the tune of Rs60,606.25/-. The departmental proceeding was started against him. Sri T.B. Mallick was the enquiring officer. In the departmental proceeding he was represented by co-staff Sri S. Majumdar. That 9(nine) witnesses were produced from the side of the bank and who were cross examined by the workman.

The workman was allowed to inspect 62 (sixty two) documents produced by the management against him. The workman produced 3(three) documents before the Enquiry Officer and examined a witness in his defence. The workman had challenged the enquiry proceeding before the Hon'ble High Court but the same was dismissed. The workman was given opportunity of personal hearing in respect of quantum of punishment by the disciplinary authority but he remained absent and as such he was dismissed from the service.

During cross examination she stated that Sri T.B. Mallick, Enquiry Officer was the Chief Manager of Jadavpur Branch. She had denied the suggestion put by the Defence Lawyer that apart from the domestic enquiry conducted by Sri T.B. Mallick, there were two other domestic enquiries against the workman conducted by Sri M.S. Ghosh and Sri M. Ali. However, the workman has failed to produce any document before this Tribunal to prove two other domestic enquiries were conducted against him by Sri M.S. Ghosh and Sri A. Ali, as law provides, if there is any domestic enquiry or departmental proceeding, the delinquent is entitled to receive copy of the same.

In fact from the record of departmental enquiry it appears there was a preliminary enquiry conducted by those persons when the management found anomaly of Rs 60,000/-while updating the ledger books of FDRs and FDRs being issued without any value. Then matter was reported in writing by branch manager to Divisional Manager. That during preliminary enquiry, the involvement of the delinquent was detected.

Further, MW no.1 in her cross examination admitted that she being a signature verifying authority of the FDR, she did not verify the signatures of Sri Ashok Kumar Das and Smt. Ajmira Khatun. She has also stated that at the relevant time delinquent workman Sri Pradip Kr. Sinha was entrusted with the work of issuing and other acts related to FDR and also issuing cheque books in respect of every kind of deposit in the bank, though higher authority issues the cheque books.

Sri Tushar Baran Mallick, the Enquiry Officer has been examined as M.W. 2. He in his evidence stated that after complying due procedure he held departmental enquiry. He submitted enquiry on the basis of oral evidence produced by the parties and materials which have been produced during the enquiry. The workman fully participated in the enquiry and who was represented by Mr. S. Mazumdar and who cross examined the management witnesses. The workman was allowed to examine all the documents produced by the management and produce witness in his defence. He found the workman guilty to the charge. However, during cross examination, he gave very evasive reply by saying due to lapse of many years he is unable to remember in details what he did during domestic enquiry.

Be that as it may, this Tribunal does not find any illegality in the charge of misconduct that has been brought against the workman by the management. The Exhibit "M" series, the record of the domestic enquiry prima facie proves that delinquent workman fully participated in the domestic enquiry. He was represented by his friend to defend him and who had extensively cross examined the management witnesses. The delinquent workman had also adduced evidence in his defence.

So, this Tribunal finds the domestic enquiry was conducted in all fair manner by following the principle of natural justice.

It has come on record that the delinquent workman was acquitted from the criminal proceeding which was started against him on the complaint lodged by the management of the bank before Jadavpur Police Station for committing fraud with the bank to the tune of Rs.60,606.25. It is settled law that acquittal in criminal trial will not itself absolve the delinquent workman from the charge which was brought on the basis of which departmental proceeding was initiated against him.

It is settled law the delinquent workman might have been acquitted from the criminal proceeding as a standard of proof that is required in a departmental proceeding differs materially from the standard of proof required in criminal trial.

Departmental proceeding is not a criminal trial and the standard of proof requires in a departmental enquiry is that of preponderance of probability and not prove beyond reasonable doubt, which is the proof requires in criminal code.

In view of the above, this Tribunal is of view the action of the management of United Commercial Bank in dismissing Sri Pradip Kr. Sinha from the service of a bank clerk for committing fraud with the Bank and causing loss to the bank to the tune of Rs 60,606.25 is held to be legal and justified. Such conduct on the part of the delinquent appears to be a grave misconduct and unbecoming to be an employee of a Bank.

Since the workman is not pursuing the case anymore, this tribunal does not find any need to hear him on point of quantum of punishment.

Accordingly, the Reference case No.47 of 1999 is disposed of and award is passed accordingly.

K. D. BHUTIA, Presiding Officer

नई दिल्ली, 1 अगस्त, 2023

का.आ. 1276.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार अब्दुल खालिक एंड मोहम्मद सोवन के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (14/2015) प्रकाशित करती है।

[सं. एल- 32011/05/2014-आई आर (बी- II)]

सलोनी, उप निदेशक

New Delhi, the 1st August, 2023

S.O. 1276.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 14/2015) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata as shown in the Annexure, in the industrial dispute between the management of M/s. Abdul Khaleque & Md. Sovan and their workmen.

[No. L- 32011/05/2014-IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present: Justice K. D. BHUTIA, Presiding Officer

REF. No. 14 OF 2015

Parties: Employers in relation to the management of

M/s Abdul Khaleque and Md. Sovan

AND

Their Workmen/ Union

Appearance:

On behalf of Management: **M/s Abdul Khaleque**

and Md. Sovan: : None

On behalf of the Workmen/ Union : **None.**

Dated 22th May, 2023

AWARD

Parties to this reference are found absent when the matter is called. None appears on behalf of the parties. As per track report notice sent by Speed Post upon the Management of The Statesmen and Union have been duly served.

That apart except the pleading of the union and principal employer, there is nothing such as oral and documentary evidence to substantiate the claim made therein by the parties.

Therefore, there is nothing on the basis of which this tribunal could decide the issue under reference i.e. “Whether the action of the Management of M/s Abdul Khaleque & Md. Sovan, contractor of The Statesmen Ltd. is justified in terminating the service of Abdul Wadoon, Md. Yunus and Md. Sarfaraz is legal and /or justified. If not, what relief the workmen are entitled to? Whether the action of the Management of The Statesmen Ltd.

by issuing notice to the contractor to terminate the services of the 03 workmen viz. Abdul Wadoon, Md. Yunus and Md. Sarfaraz is legal and /or justified? If not, what relief the workmen are entitled to?, and reference by the Ministry of Labour vide Order No. L-32011/05/2014-IR(B-II) dated 05.03.2015.

In the above, the Reference Case No. 14 of 2015 is disposed of. Accordingly, no dispute award is passed.

Justice K.D. BHUTIA, Presiding Officer